MONTICELLO, MINNESOTA
CODE OF ORDINANCES

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “city code”, for which designation “code of ordinances”, “codified ordinances”, or “code” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “Traffic Code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01”. Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 RULES OF INTERPRETATION.

(A) Generally. Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) Specific rules of interpretation. The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) AND or OR. Either conjunction shall include the other as if written “and/or”, whenever the context requires.

(2) Acts by assistants. When a statute, code provisions, or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(3) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) General rule. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) Definitions. For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The area within the corporate boundaries of the city as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term CITY when used in this code may also be used to refer to the City Council and its authorized representatives.

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. The county of Wright.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words SWEAR and SWORN shall be equivalent to the words AFFIRM and AFFIRMED. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

PERSON. Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Minnesota.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect

other provisions that can be given effect without the invalid provision or application.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all city business.

§ 10.11 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

§ 10.12 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the City Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.17 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into, or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.18 COPIES OF CODE.

The official copy of this code shall be kept in the office of the City Clerk for public inspection. The Clerk shall provide a copy for sale for a reasonable charge.

§ 10.19 ADOPTION OF STATUTES AND RULES AND SUPPLEMENTS BY REFERENCE.

(A) All future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

(B) All future supplements are hereby adopted as if they had been in existence at the time this code was enacted, unless there is clear intention expressed in the code to the contrary.

§ 10.20 ENFORCEMENT.

(A) Any Licensed Peace Officer of the city's Police Department, or the County Sheriff, or any Deputy Sheriff shall have the authority to enforce any provision of this code.

(B) As permitted by M.S. § 626.862, as it may be amended from time to time, the City Clerk shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

(C) The City Clerk and any city official or employee designated by this code who has the responsibility to perform a duty under this code may, with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

(D) If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk, Peace Officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particula

(E) Every licensee, owner, resident, or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Clerk or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for

termination of any and all permits, licenses, or city service to the property. Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the City Clerk to object to the termination before it occurs, subject to appeal of the Clerk's decision to the City Council at a regularly scheduled or special meeting.

(F) Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety, and welfare.

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

(A) In addition to those administrative penalties established in this code and the enforcement powers granted in § 10.20, the City Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. The resolution may be in the form established in Appendix VI of the User's Guide to the MBC. Such resolution may not proscribe administrative penalties for traffic offenses designated by M.S. § 169.999.

(B) These administrative penalty procedures in this section are intended to provide the public and the city with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain provisions of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

(C) Administrative penalties for violations of various provisions of the code, other than those penalties established in the code or in statutes that are adopted by reference, may be established from time to time by resolution of a majority of the members of the City Council. In order to be effective, an administrative penalty for a particular violation must be established before the violation occurred.

(D) In the discretion of the peace officer, City Clerk, or other person giving notice of an alleged violation of a provision of this code, in a written notice of an alleged violation, sent by first class mail to the person who is alleged to have violated the code, the person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the City Treasurer within 14 days of the notice of the violation. A sample notice is contained in the Appendix to this chapter. In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given. In addition to the administrative

penalty, the person giving notice may request in the notice to the alleged violator to adopt a compliance plan to correct the situation resulting in the alleged violation and may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, that the payment of the administrative penalty will be waived.

(E) At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

(F) At any time after the date the payment of the administrative penalty is due, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the city, through its Attorney, may bring criminal charges in accordance with state law and this code. Likewise, the city, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty, even if a penalty for the particular violation has been established by City Council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the city for the alleged violation.

§ 10.99 GENERAL PENALTY AND ENFORCEMENT.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both.

(B) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than $300.

(C) Pursuant to M.S. § 631.48, as it may be amended from time to time, in either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

(E) In addition to any penalties provided for in this section or in § 10.98, if any person, firm, or corporation fails to comply with any provision of this code, the City Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

APPENDIX
NOTICE OF CODE VIOLATION

To: (Name and address of person who is alleged to have violated the code)

From: (Name and title of city official giving the notice)

Re: Alleged violation of section of the city code, relating to (give title of section)

Date: (Date of notice)

I hereby allege that on (date of violation) you violated § of the city code relating to

.

The City Council has by resolution established an administrative penalty in the amount of $ for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it the city may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by (establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the city reserves the right to institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Before the due date, you may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the

Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

If you pay the administrative penalty, the city will not initiate criminal proceedings for this alleged violation. However, the City Council, or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain.

Payment of the administrative penalty may be made by check, cash, or money order to the City Treasurer.

Signed:

(Name and title of person giving notice)

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CHAPTER 30: CITY COUNCIL

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§ 30.01 MEETINGS.

(A) Regular meetings of the City Council shall be held on the second and fourth Monday of each calendar month at a time to be established and approved annually with the regular meeting schedule of Council and commissions. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings, including special and adjourned meetings, shall be held in the Council chambers, unless the notice of the special meeting designates a different location.

(B) Special meetings of the City Council may be called by the Mayor or by any two members of the Council by writing filed with the Clerk. At least one day before the meeting, the Clerk or his or her appointed assistant shall notify each member of the time, place, and purpose of the meeting. Special meetings may be held without prior written notice when all councilmembers are present at the meeting or consent thereto in writing. Any special meeting attended by all the councilmembers shall be a valid meeting for the transaction of any business that may come before the meeting.

(C) At the first regular City Council meeting in January of each year, the Council shall:

(1) Designate the depositories of city funds;

(2) Designate the official newspaper;

(3) Choose an acting Mayor from the members who shall perform the duties of the Mayor during the disability or absence of the Mayor from the city, or in case of a vacancy in the office of Mayor until a successor has been appointed and qualifies; and

(4) Appoint officers and employees and members of boards, commissions, and committees as may be necessary.

(D) All City Council meetings, including special and adjourned meetings, shall be open to the public.

(Prior Code, § 1-5-1) (Ord. 616, passed 6-22-2015)

§ 30.02 PRESIDING OFFICER.

(A) The Mayor shall preside at all meetings of the City Council. In the absence of the Mayor, the acting Mayor shall preside, or in the absence of both, the Clerk shall call the meeting to order and shall preside until the councilmembers present at the meeting choose one of their number to act temporarily as presiding officer.

(B) The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine without debate, subject to the final decision of the City Council on appeal, all questions of procedures and order. Except as otherwise provided by statute or by these rules, the proceedings of the Council shall be conducted in accordance with Robert's Rules of Order, Revised.

(C) Any member may appeal to the City Council from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain his or her ruling, but no other councilmember shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present exclusive of the presiding officer.

(D) The Mayor or any other member of the City Council may move, second, and debate a motion. The presiding officer shall not be deprived of any of the privileges of a councilmember by reason of his or her acting as the presiding officer.

(Prior Code, § 1-5-2)

§ 30.03 MINUTES.

(A) The minutes of each City Council meeting shall be kept by the Clerk. In the absence of the Clerk, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the Clerk and can be accurately identified from the description given in the minutes.

(B) The minutes of each meeting shall be signed by the Clerk, and copies thereof shall be delivered to each city councilmember as soon as practicable after the meeting. At the next regular meeting following delivery, approval of the minutes shall be considered by the Council, which minutes need not

be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved as submitted.

(Prior Code, § 1-5-3)

§ 30.04 ORDER OF BUSINESS.

(A) Each meeting of the City Council shall convene at the time and place appointed therefor, and Council business shall be conducted in the following order:

(1) Call to order;

(2) Approval of minutes;

(3) Citizen comments;

(4) Reports of officers, boards, and committees;

(5) Consent agenda;

(6) Payment of claims;

(7) Ordinance and resolutions;

(8) Public hearings;

(9) New business;

(10) Unfinished business; and

(11) Adjournment.

(B) The order of business may be varied by the presiding officer, but all public hearings shall be held at an approximate time specified in the notice of hearing.

(Prior Code, § 1-5-4)

§ 30.05 AGENDA.

The agenda shall be prepared in accordance with the order of business and agenda packet shall be provided to each councilmember. No item of business shall be considered unless it appears on the agenda for the meeting; but the City Council may, in its discretion, consider matters not appearing on the agenda.

(Prior Code, § 1-5-5)

§ 30.06 QUORUM.

At all City Council meetings, a majority of all councilmembers elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

(Prior Code, § 1-5-6)

§ 30.07 VOTING.

The votes of the members on any question pending before the City Council may be by voice vote, standing vote, or in any other manner of voting which signifies the intention of the members; but if the vote is not unanimous, the names of those voting for and against the question shall be recorded in the minutes. If any member being present does not vote, the minutes, as to his or her name, shall be marked “present, not voting”.

(Prior Code, § 1-5-7)

§ 30.08 ORDINANCES, RESOLUTIONS, MOTIONS, AND THE LIKE.

(A) Every ordinance and resolution shall be presented in writing and shall be ready in full before a vote is taken thereon, but reading in full may be dispensed with by unanimous consent. All motions shall be recorded in the minutes and stated in full before they are submitted to a vote by the presiding officer. All petitions and other communications addressed to the City Council shall be in writing and shall be read in full upon presentation of the same to the Council. They shall then be recorded in the minutes by title and filed with the minutes in the office of the Clerk.

(B) Every ordinance and resolution passed by the City Council shall be signed by the Mayor, attested by the Clerk, and filed by him or her in the ordinance or resolution book. Proof of publication of every ordinance shall be attached to and filed with the ordinance.

(C) Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall be assigned the number, if any, and the title of the ordinance or resolution to be repealed in whole or part. No ordinance or resolution or section or subdivision thereof shall be amended by reference to the title alone, but an amending ordinance or resolution shall set forth in full each section or subdivision to be amended.

(Prior Code, § 1-5-8)

§ 30.09 COMMISSIONS.

The City Council may create such commissions, standing or special, as it deems necessary. Commissions shall consist of as many members, and perform such duties, as the Council may from time to time require. Any matter brought before the Council for consideration may be referred by the presiding officer to the appropriate commission or to a special commission appointed by him or her for a written report and recommendation before it is considered by the Council as a whole.

(Prior Code, § 1-5-9)

§ 30.10 SUSPENSIONS, AMENDMENTS OF RULES.

The rules and regulation of the City Council may be temporarily suspended by a majority vote of all the councilmembers and shall not be repealed or amended except by a majority vote of the whole Council after notice has been given at some preceding Council meeting.

(Prior Code, § 1-5-10)

§ 30.11 COMPENSATION.

The monthly salary for the offices of Mayor and councilmembers shall be as follows:

(A) Mayor: $700; and

(B) Councilmembers: $600.

(Prior Code, § 1-5-11) (Ord. 482, passed 5-27-2008)

§ 30.12 WORKER'S COMPENSATION; ELECTED OFFICIALS.

Pursuant to M.S. § 176.011, subd. 9, clause 6, as it may be amended from time to time, the elected officials of the city are hereby included in the coverage of the state's Worker's Compensation Act, being M.S. Ch. 176, as it may be amended from time to time.

(Prior Code, § 1-5-12) (Ord. 168, passed 1-23-1989)

§ 30.13 MAYORAL TERM.

Pursuant to M.S. § 205.07, as it may be amended from time to time, the term of an elected mayor shall be two years, effective January 1, 2001.

(Prior Code, § 1-5-13) (Ord. 316, passed 8-10-1998; Ord. 324, passed 4-26-1999)

§ 30.14 REMOVAL OF APPOINTED COUNCILMEMBERS FROM A COMMITTEE, COMMISSION, BOARD, AND THE LIKE.

Except as otherwise provided in this code, any city councilmember appointed to any board, commission, committee, or other entity by the City Council, whether for a specified term or for an indefinite term, shall serve at the pleasure of the Council and may be removed by the Council by a three-fifths vote of the full Council at any time.

(Prior Code, § 1-5-14) (Ord. 327, passed 6-28-1999; Ord. 328, passed 7-12-1999)

CHAPTER 31: EMPLOYEE POLICIES

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PERSONNEL

§ 31.01 PURPOSE.

It shall be the purpose of those rules and regulations to establish a uniform and equitable system of municipal personnel administration for all employees of the city.

(Prior Code, § 1-6-1)

§ 31.02 ADOPTION OF CITY PERSONNEL HANDBOOK BY REFERENCE.

The city’s personnel handbook as adopted by the City Council, and amended as needed, shall serve as the system of municipal personnel administration for the city.

(Prior Code, § 1-6-2)

§ 31.03 POSITIONS.

All offices and positions in the city now existing or hereafter created by the City Council, unless specifically exempt, shall be subject to the provisions of these rules and regulations, except that the following offices and positions in the municipal employ shall be exempt from the provisions of these rules and regulations:

(A) Elected officials;

(B) Members of boards and commissions; and

(C) Appointed officials as follows: Attorney.

(Prior Code, § 1-6-3)

§ 31.04 CITY ADMINISTRATOR.

(A) The City Council shall appoint a City Administrator who shall provide the administrative supervision and direction of the city under the governance of the Council.

(B) The duties of Administrator shall be as prescribed by the City Council and in accordance with state statutes.

(Prior Code, § 1-6-4) (Ord. 72, passed 1-30-1980; Ord. 608, passed 1-26-2015)

§ 31.05 OUTSIDE EMPLOYMENT.

(A) Any employee holding one of the positions listed below shall not perform the same or substantially similar duties for another local unit of government on either a full-time or ongoing part-time basis, either directly as an employee or independent contractor or indirectly through a corporation or other entity.

(B) The positions covered by this section are: City Administrator; Community Development Director; Economic Development Director; Public Works Director; Chief Building Official; City Engineer; and Finance Director.

(Prior Code, § 1-6-5) (Ord. 430, passed 9-26-2005; Ord. 586, passed 11-12-2013)

PROCEDURE FOR ENFORCING ADMINISTRATIVE OFFENSES

§ 31.20 PURPOSE.

Administrative offense procedures established pursuant to this subchapter are intended to provide the public and the city with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures in which event the city may bring criminal charges in accordance with law. Likewise, the city, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures but does not pay the monetary

penalty which may be imposed, the city will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

(Prior Code, § 1-7-1)

§ 31.21 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE OFFENSE. A violation of a provision of this code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in §§ 10.98 and 10.99.

(Prior Code, § 1-7-2)

§ 31.22 NOTICES.

(A) Before an administrative citation may be issued, staff shall mail a notice of violation to the last known address of the individual committing the alleged offense. In the event there is no response to the initial letter, staff shall mail a final notice of violation to the last known address of the individual committing the alleged offense and provide them notice that failure to comply with the final notice will result in the issuance of an administrative citation. No additional notice shall be required before issuing a citation if the property owner has already been issued a citation within the last 12 months.

(B) Any officer of the Wright County Sheriff’s Office or any other person employed by the city, authorized in writing by the City Administrator, and having authority to enforce this code, shall, upon determining that there has been a violation, notify the violator and provide the violator with notice. The notice shall set forth the nature, date, and time of violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

(Prior Code, § 1-7-3)

§ 31.23 PAYMENT.

Once notice is given, the alleged violator may, within seven days of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter.

The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

(Prior Code, § 1-7-4)

§ 31.24 HEARING.

Any person contesting an administrative offense pursuant to this subchapter may, within seven days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

(Prior Code, § 1-7-5)

§ 31.25 HEARING OFFICER.

A city representative designated in writing by the City Administrator shall be the hearing officer for all administrative offenses. The hearing officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this subchapter.

(Prior Code, § 1-7-6)

§ 31.26 FAILURE TO PAY.

In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable ordinance or statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no charge may be brought by the city for the same violation.

(Prior Code, § 1-7-7)

§ 31.27 DISPOSITION OF PENALTIES.

All penalties collected pursuant to this subchapter shall be paid to the city and may be deposited in the city’s General Fund.

(Prior Code, § 1-7-8)

CRIMINAL HISTORY BACKGROUND INVESTIGATIONS

§ 31.40 BACKGROUND INVESTIGATIONS.

(A) Applicants for city employment. The city shall conduct a criminal history background investigation on the applicants for all full- and part-time employment positions with the city. All employees hired on or after the effective date hereof shall be subject to additional periodic criminal history background investigations at the discretion of the city during the term of their employment.

(B) City volunteers. The city shall conduct a criminal history background investigation on those applicants the City Administrator or designee deems such investigation to be necessary based upon anticipated interaction with children, seniors, or vulnerable persons, or for any other reason or as a matter of general practice, as determined at the sole discretion of the city. This division (B) specifically excludes members elected or appointed to the City Council. All volunteers appointed on or after the effective date hereof shall be subject to additional periodic criminal history background investigations at the discretion of the city during the term of their service to the city.

(C) Applicants for city licenses. The city or Wright County Sheriff's Office shall conduct a criminal history background investigation on the applicants for the following licenses with the city:

(1) Liquor licenses (3.2% malt liquor, wine, intoxicating liquors, breweries, distilleries, Sunday liquor);

(2) Lawful gambling;

(3) Pawnshops;

(4) Massage businesses and services; and

(5) Peddlers, solicitors, and transient merchants.

§ 31.41 INVESTIGATION PROCESS.

(A) Individuals subject to a criminal background investigation must authorize the city or Wright County Sheriff's Office, by written or other specified mean, of consent to conduct the criminal history background investigation before the investigation is undertaken with such consent fully compliant with the provisions of M.S. Ch. 13, as it may be amended from

time to time, regarding the collection, maintenance, and use of the information.

(B) Any data that is accessed and acquired by the city shall be maintained at City Hall under the care and custody of the Human Resources Manager and City Clerk.

(C) Any data that is accessed and acquired by Wright County Sheriff's Office shall be maintained under the care and custody of Wright County's designee.

(D) Any data that is acquired or summary of the results of the criminal history background investigation may be released to the City Council, City Administrator, City Attorney, City Clerk, or Human Resources if necessary to carry out the duties of their position.

(E) The cost of the criminal background investigations shall be listed in the city's fee schedule ordinance and shall be paid to the city.

§ 31.42 RESULTS AND ACTION BY CITY.

(A) Except for the positions set forth in M.S. § 364.09, as it may be amended from time to time, the city will not reject an applicant for employment, volunteer assignment, or license on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence.

(B) If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

(1) The grounds and reasons for the denial;

(2) The applicant complaint and grievance procedure set for the in M.S. § 364.06;

(3) The earliest date the applicant may reapply for employment, volunteer assignment, or issuance of a license; and

(4) All competent evidence of rehabilitation will be considered upon reapplication.

§ 31.43 ADDITIONAL CONDITIONS.

Nothing in this subchapter limits the city's right to establish additional conditions or requirements above and beyond a criminal background investigation in circumstances where the City Council or city staff

determine that such additional conditions or requirements will serve to better protect the city and/or the health, safety, and welfare of its residents or the public in general.

CHAPTER 32: ORGANIZATIONS

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PLANNING COMMISSION

§ 32.001 NAME OF THE COMMISSION.

The name of the organization shall be the Monticello Planning Commission.

(Prior Code, § 2-1-1)

§ 32.002 AUTHORIZATION.

(A) The authorization for the establishment of this Commission is set forth under M.S. Ch. 462, Municipal Planning Enabling Act, as it may be amended from time to time.

(B) The Planning Commission is hereby designated the planning agency of the city pursuant to the Municipal Planning Act.

(Prior Code, § 2-1-2)

§ 32.003 MEMBERSHIP.

The Planning Commission shall consist of five members appointed by the City Council. All members shall be residents of the city and shall have equal rights and privileges.

(Prior Code, § 2-1-3)

§ 32.004 TERM OF OFFICE.

(A) Appointments. All members shall be appointed for three-year terms ending on December 31 of a given year; however, the term may be terminated earlier by the City Council. Terms shall be staggered so that no more than two members' terms shall expire in a given year. The terms are to commence on the day of appointment by Council. Every appointed member shall, before entering upon the discharge of his or her duties, take an oath that he or she will faithfully discharge the duties of office.

(B) Renewals. When an expiring member's term is up, such member may be reappointed by Council with the effective date of the new term beginning on the first day of the next year following the expiration.

(Prior Code, § 2-1-4)

§ 32.005 ATTENDANCE.

It is the City Council’s intention to encourage Planning Commission members to attend all Planning Commission meetings. Should any Planning Commission member be absent for more than three meetings in a calendar year, that member may be subject to replacement by the Council.

(Prior Code, § 2-1-5)

§ 32.006 VACANCY.

Any vacancy in the regular or at-large membership shall be filled by the City Council, and such appointee shall serve for the unexpired term so filled.

(Prior Code, § 2-1-6)

§ 32.007 OFFICERS.

(A) Elections. The City Planning Commission shall elect at its January meeting from its membership a Chair, Vice Chair, and a Secretary who shall serve for a term of one year and shall have powers as may be prescribed in the rules of the Commission.

(B) Duties of Chair. The Chair shall preside at all meetings of the Planning Commission and shall have the duties normally conferred and parliamentary usage of such officers.

(C) Duties of Vice Chair. The Vice Chair shall act for the Chair in his or her absence.

(D) Duties of Secretary.

(1) A Secretary may be appointed who is not a member of the Planning Commission but can be employed as a member of city staff.

(2) The Secretary shall keep the minutes and records of the Commission; and with the assistance of staff as is available shall prepare the agenda of the regular and special meetings for Commission members, arrange proper and legal notice of hearings when necessary, attend to correspondence of the Commission, and handle other duties as are normally carried out by a Secretary.

(Prior Code, § 2-1-7)

§ 32.008 MEETINGS.

(A) The Planning Commission shall hold at least one regular meeting each month. This meeting shall be held on the first Tuesday. Regular meeting times shall be established by the Commission and approved annually with the regular meeting schedule of Council and Commission. Hearings shall be heard as soon thereafter as possible. The Planning Commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. The meeting shall be open to the general public.

(B) In the event of conflict for a regularly-scheduled meeting date, a majority at any meeting may change the date, time, and location of the meeting.

(C) Special meetings may be called by the chair or two members of the Planning Commission together, as needed, and shall be coordinated with city staff.

(Prior Code, § 2-1-8)

§ 32.009 QUORUM.

A majority of all voting Planning Commission members shall constitute a quorum for the transaction of business.

(Prior Code, § 2-1-9)

§ 32.010 DUTIES OF THE COMMISSION.

(A) The Commission has the powers and duties assigned to it under M.S. Ch. 462, Municipal Planning Enabling Act, as it may be amended from time to time, by this code, and state law.

(Prior Code, § 2-1-10)

(B) The Planning Commission shall act as the Board of Adjustment and Appeals for the Monticello zoning ordinance and shall act according to procedures as established by the Monticello zoning ordinance.

§ 32.011 AMENDMENTS.

This subchapter may be amended as recommended by the majority vote of the existing membership of the Planning Commission and only after majority vote of the City Council.

(Prior Code, § 2-1-11)

§ 32.012 COMPENSATION.

Compensation of members of the Commission shall be as set forth in city code for fee schedule.

(Prior Code, § 2-1-12) (Ord. 336, passed 11-22-1999; Ord. 337, passed 1-10-2011; Ord. 593, passed 3-10-2014; Ord. 607, passed 1-26-2015)

LIBRARY BOARD

§ 32.025 APPOINTMENT.

(A) There is hereby created and established a Library Board pursuant to M.S. Ch. 134, as it may be amended from time to time, and laws amendatory thereof or supplemental thereto. The Board shall consist of five members appointed by the Mayor with the approval of the City Council.

(B) The Board shall consist of no more than one member who is not a resident of the city and no more than one member of the City Council.

(Prior Code, § 2-5-1)

§ 32.026 TERMS.

(A) Two members shall hold office until December 31, 1981, two members shall hold office until December 31, 1982, and one member shall hold office until December 31, 1983.

(B) Annually thereafter, appointments shall be for the term of three years.

(Prior Code, § 2-5-2)

§ 32.027 REMOVAL OF DIRECTORS.

The Mayor, with the approval of the City Council, may remove any member of the Library Board for misconduct or neglect of duty.

(Prior Code, § 2-5-3)

§ 32.028 VACANCIES.

Vacancies in the Board shall be filled by an appointment by the Mayor with City Council approval. Any Board member so appointed shall serve the remaining term of the vacated Board member.

(Prior Code, § 2-5-4)

§ 32.029 ORGANIZATION OF BOARD AND RULES.

(A) Immediately after appointment, such Board shall organize by electing one of its number as President and one as Secretary, and from time to time it may appoint other officers and employees as it deems necessary.

(B) The Board shall adopt bylaws and regulations for the government of the library, community room, and reading room and for the conduct of its business as may be expedient and conformable to law.

(Prior Code, § 2-5-5)

§ 32.030 ADDITIONAL POWER.

The Board shall have additional powers as commensurate with M.S. Ch. 134, as it may be amended from time to time, and laws amendatory thereof or supplemental thereto.

(Prior Code, § 2-5-10) (Ord. 96, passed 4-13-1981)

PARKS, ARTS, AND RECREATION COMMISSION

§ 32.045 PURPOSE.

A Parks, Arts, and Recreation Commission is hereby established to serve as an advisory commission to the City Council.

(Prior Code, § 2-6-1) (Ord. 664, passed 4-10-2017; Ord. 731, passed 11-12-2019)

§ 32.046 MEMBERSHIP.

(A) The Parks, Arts, and Recreation Commission shall consist of seven regular members to be appointed by the City Council. The Commission shall consist of no more than one member who is not a resident of the city.

(B) Any non-resident appointed to the Commission must reside in the Orderly Annexation Area.

(Prior Code, § 2-6-2) (Ord. 664, passed 4-10-2017; Ord. 731, passed 11-12-2019)

§ 32.047 TERM OF OFFICE.

The term of the regular members shall be for three years and shall be staggered so that no more than two members' terms expire in a given year. All regular terms shall expire on December 31 of a given year.

(Prior Code, § 2-6-3)

§ 32.048 ATTENDANCE.

It is the City Council's intention to encourage Parks, Arts, and Recreation Commission members to attend all Parks, Arts, and Recreation Commission meetings. Should any Parks, Arts, and Recreation Commission member be absent for more than three meetings in a calendar year, that member will be subject to replacement by the Council.

(Prior Code, § 2-6-4) (Ord. 731, passed 11-12-2019)

§ 32.049 VACANCY.

Any vacancy in the regular or at large membership shall be filled by the City Council, and such appointee shall serve for the unexpired term so filled.

(Prior Code, § 2-6-5)

§ 32.050 OFFICERS.

(A) Elections. The city's Parks, Arts, and Recreation Commission shall elect at its January meeting from its membership a Chair, Vice Chair, and a Secretary who shall serve for a term of one year and shall have powers as may be prescribed in the rules of the Commission.

(B) Duties of Chair. The Chair shall preside at all meetings of the Parks, Arts, and Recreation Commission and shall have the duties normally conferred and parliamentary usage of such officers.

(C) Duties of Vice Chair. The Vice Chair shall act for the Chair in his or her absence.

(D) Duties of Secretary. A Secretary may be appointed who is not a member of the Parks, Arts, and Recreation Commission but can be employed as a member of city staff. The Secretary shall keep the minutes and records of the Commission; and with the assistance of staff as is available shall prepare the agenda of the regular and special meetings for Commission members, arrange proper and legal notice of hearings when necessary, attend to correspondence of the Commission, and other duties as are normally carried out by a Secretary.

(Prior Code, § 2-6-6) (Ord. 731, passed 11-12-2019)

§ 32.051 MEETINGS.

Regular meetings shall be held on a date established by the Parks, Arts, and Recreation Commission. In the event of a conflict with a holiday or special events, a majority at any meeting may change the date and location of the meeting. The meeting shall be open to the general public.

(Prior Code, § 2-6-7) (Ord. 731, passed 11-12-2019)

§ 32.052 QUORUM.

A majority of the total Parks, Arts, and Recreation Commission members shall constitute a quorum for the transaction of business.

(Prior Code, § 2-6-8) (Ord. 731, passed 11-12-2019)

§ 32.053 DUTIES OF THE COMMISSION.

It shall be the duty of the Commission, with staff assistance, to study and provide information to determine the city’s needs for parks facilities and open space needs of the city along with recommendations for recreation activities and programming including general and specific development standards and criteria for evaluating specific sites.

(Prior Code, § 2-6-9) (Ord. 664, passed 4-10-2017)

§ 32.054 AMENDMENTS.

This subchapter may be amended as recommend by the majority vote of the existing membership of the Parks, Arts, and Recreation Commission and only after majority vote of the City Council.

(Prior Code, § 2-6-10) (Ord. 203, passed 2-11-1991; Ord. 664, passed 4-10-2017; Ord. 731, passed 11-12- 2019)

BERTRAM CHAIN OF LAKES REGIONAL PARK ADVISORY COUNCIL

§ 32.065 ESTABLISHMENT.

The City of Monticello, in partnership with Wright County, hereby establishes an Advisory Council of the Bertram Chain of Lakes Regional Park.

(Ord. 598, passed 5-12-2014)

§ 32.066 PURPOSE.

The Bertram Chain of Lakes Regional Park Advisory Council shall provide information to its governing bodies in determination of the acquisition, usage, operation, management, and functions of the Bertram Chain of Lakes Regional Park.

(Ord. 598, passed 5-12-2014)

§ 32.067 BYLAWS BY REFERENCE.

The City Council has approved bylaws for the Bertram Chain of Lakes Regional Park Advisory Council, the current version of which has been filed in the office of the City Clerk.

(Ord. 598, passed 5-12-2014)

INDUSTRIAL AND ECONOMIC DEVELOPMENT COMMITTEE

§ 32.075 NAME OF COMMITTEE.

The name of the organization shall be the city’s Industrial and Economic Development Committee (IEDC).

(Prior Code, § 2-10-1)

§ 32.076 AUTHORIZATION.

Duties are delegated to the IEDC by the City Council by the ordinance codified herein dated June 28, 2010, and by Res. 2008-44, approved May 27, 2008.

(Prior Code, § 2-10-2)

§ 32.077 MEMBERSHIP.

The city's IEDC shall consist of 16 to 18 regular members to be appointed by the City Council. The Committee members shall consist of city business representatives or residents of the city. Specific general membership eligibility on the IEDC shall be defined in the Organizational and Membership Guidelines. One councilmember shall be appointed annually to serve on the IEDC. The Director of the city's Chamber of Commerce and Industry shall be an ex-officio member of the IEDC. Up to two Monticello High School senior students may serve as voting members during their appointed term. The High School Principal shall recommend their membership on the IEDC. The IEDC and the City Council shall confirm their appointment.

(Prior Code, § 2-10-3) (Ord. 637, passed 4-25-2016; Ord. 715, passed 3-25-2019; Ord. 782, passed 8-8- 22022)

§ 32.078 TERM OF OFFICE.

The term of the regular members shall be for three years and shall be staggered so that no more than one-half of the terms expire in a given year. All regular terms shall expire on December 31 of any given year.

(Prior Code, § 2-10-4)

§ 32.079 ATTENDANCE.

It is the City Council's intention to encourage IEDC members to attend all IEDC meetings. It is desired that IEDC members attend at least 75% of meetings in a calendar year. Members may be subject to replacement by the Council in the event attendance does not meet this standard.

(Prior Code, § 2-10-5)

§ 32.080 VACANCY.

Any vacancy in the regular or at large membership shall be filled by the City Council, and such appointee shall serve for the unexpired term so filled.

(Prior Code, § 2-10-6)

§ 32.081 OFFICERS.

(A) Elections. The city's IEDC shall elect at its annual meeting from its membership a Chair, Vice Chair, and a Secretary who shall serve for a term of one year and shall have powers as may be prescribed in the rules of the Committee.

(B) Duties of Chair. The Chair shall preside at all meetings of the IEDC and shall have the duties normally conferred and parliamentary usage of such officers.

(C) Duties of Vice Chair. The Vice Chair shall act for the Chair in his or her absence.

(D) Duties of Secretary. The Secretary shall keep the minutes and records of the Committee with the assistance of city staff.

(Prior Code, § 2-10-7)

§ 32.082 MEETINGS.

Regular meetings shall be held on a date established by the IEDC. In the event of a conflict with a holiday or special events, a majority at any meeting may change the date and location of the meeting. The meeting shall be open to the general public.

(Prior Code, § 2-10-8)

§ 32.083 QUORUM.

A majority of the total IEDC members shall constitute a quorum for the transaction of business.

(Prior Code, § 2-10-9)

§ 32.084 DUTIES OF THE COMMITTEE.

It shall be the duty of the Committee, with staff assistance, to advocate and make recommendations to the Economic Development Authority and City Council, relative to and including influencing industrial and economic development in and for the city, with an emphasis on industrial land, increasing tax base and number of livable wage-level jobs by promoting industrial and economic growth, and working to maintain a desirable business environment.

(Prior Code, § 2-10-10)

§ 32.085 AMENDMENTS.

This subchapter may be amended as recommend by the majority vote of the existing membership of the IEDC and only after majority vote of the City Council.

(Prior Code, § 2-10-11) (Ord. 519, passed 8-23-2010)

ECONOMIC DEVELOPMENT AUTHORITY

§ 32.100 ESTABLISHED.

As authorized by M.S. Ch. 469, as it may be amended from time to time, the City Council has established an Economic Development Authority by passing an enabling resolution, the current version of which has been filed in the office of the City Clerk.

(Prior Code, § 2-3-1) (Ord. 469A, passed 12-10-2007; Ord. 551, passed 2-27-2012)

CHAPTER 33: EMERGENCY MANAGEMENT

Section

33.01 Policy and purpose

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33.04 Powers and duties of Director

33.05 Local emergencies

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§ 33.01 POLICY AND PURPOSE.

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds, or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to ensure that preparations of this city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters;

(B) To provide for the exercise of necessary powers during emergencies and disasters;

(C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency preparedness functions; and

(D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

§ 33.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISASTER. A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

EMERGENCY. An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

EMERGENCY MANAGEMENT. The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, firefighting services, police services, emergency medical services, engineering, warning services, communications, radiological, chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions.

EMERGENCY MANAGEMENT FORCES. The total personnel resources engaged in city level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

EMERGENCY MANAGEMENT ORGANIZATION. The staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides a city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

§ 33.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called the Director. The Director’s responsibilities shall be part of the duties of the Fire Marshal/Emergency Services Coordinator. The Director shall have direct responsibility for the organization, administration, and operation of the emergency preparedness organization, subject to the direction and control of the City Administrator. The emergency management organization shall conform to and be consistent with, where applicable, all state and federal requirements, including the National Incident Management System framework found at 44 C.F.R. part 201, as it may be amended from time to time.

§ 33.04 POWERS AND DUTIES OF DIRECTOR.

(A) The Director shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the City Council for its action. These arrangements shall be consistent with the Minnesota State Emergency Plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources, and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the City Administrator and/or City Council.

(C) The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the City Council for its approval. When the Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Operations Plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the city’s emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of

emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

(G) Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S. § 12.25, as it may be amended from time to time.

(H) The Director shall carry out all orders, rules, and regulations issued by the Governor with reference to emergency management.

(I) The Director shall prepare and submit reports on emergency preparedness activities when requested by the Mayor.

§ 33.05 LOCAL EMERGENCIES.

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the City Council. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Clerk.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

Penalty, see § 33.99

§ 33.06 EMERGENCY REGULATIONS.

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the City Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation,

respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Clerk. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Clerk's office shall be conspicuously posted at the front of the City Hall or other headquarters of the city or at other places in the affected area as the City Council shall designate in the resolution. By resolution, the Council may modify or rescind a regulation.

(C) The City Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.37, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its City Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

Penalty, see § 33.99

§ 33.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall

not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

§ 33.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

§ 33.99 PENALTY.

Any person who violates any provision of this chapter or any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of city employees or officers is guilty of a misdemeanor.

CHAPTER 34: EMERGENCY RESPONSE SERVICES

Section

34.01 Findings, purpose, and intent

34.02 Definitions

34.03 Conflicts

34.04 Fire service charges in general

34.05 Fire service charges

34.06 Fees

§ 34.01 FINDINGS, PURPOSE, AND INTENT.

This chapter is adopted for the purpose of authorizing the city to establish and charge user service charges for emergency services as described in this chapter.

(Ord. passed - -)

§ 34.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALARM SYSTEM. An alarm installation designed to be used for the prevention or detection of burglary, robbery, heat, smoke, carbon monoxide, and fire on the premises which contain an alarm installation. Automobile alarm devices are not an ALARM SYSTEM.

ALARM USER. A person in control of any building, structure, or facility wherein an alarm system is maintained.

COMMERCIAL BUILDING and INSTITUTIONAL BUILDING. Any structures that are used, or intended either by the nature of its construction, or by any conditional use permits, interim use permits, or business licenses issued to be used for commercial, institutional (e.g., school or governmental uses), or industrial purposes. Multiple family rental housing of any type is considered to be commercial for the purposes of this chapter.

EMERGENCY MEDICAL RESPONSE (NON MOTOR VEHICLE INCIDENT). Any medical response not involving a motor vehicle where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of any injured persons.

EXCAVATOR. A person who conducts excavation.

FALSE ALARM. An alarm signal eliciting a response by fire personnel when a situation requiring a response does not, in fact, exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation, or the inadvertence of the owner or lessee of an alarm system.

FIRE RESPONSE. Any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of firefighting personnel and/or equipment to provide fire suppression, rescue, extrication, or any other services related to fire and rescue as may occasionally occur. Such deployment constitutes FIRE RESPONSE regardless of whether these services are actually performed.

FIRE SERVICE CHARGE. The charge imposed by the city for a fire response or emergency medical response.

FIRE WATCH. An event where one or more members of the city’s Fire Department remain at the scene of an emergency response after the emergency has been addressed by the city’s Fire Department for the purpose of maintaining watch over the property responded to until an owner or an owner’s representative arrives to secure the property.

HAZARDOUS SUBSTANCE. Any chemical or chemical compound that is listed as a hazardous substance in rules adopted under M.S. Ch. 182, as it may be amended from time to time.

ILLEGAL ACTIVITIES. Any activity in violation of state statutes, rules, and regulations, or city or county ordinances, which may be criminal or merely not in conformity therewith.

MOTOR VEHICLE. Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes any vehicle propelled or drawn by a self-propelled vehicle. This includes semi trailers, snowmobiles, all terrain vehicles, and campers.

MOTOR VEHICLE OWNER. Any person, firm, association, or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under a lease or otherwise, for a period of greater than 30 days.

PERSON. The state, a public agency, a local governmental unit, an individual, corporation, partnership, association, business, public entity, or a trustee, receiver, assignee, or personal representative of any of them.

PREVENTATIVE FIRE WATCH. A situation when Fire Department personnel provide fire watch protection in any place of assembly or any place where people congregate where public safety is at risk due to the number of persons, or the nature of the performance, exhibition, display, contest, or activity, or due to unusual fire hazards.

RESIDENTIAL BUILDING. Any structure which is used or intended by the nature of its construction to be used by persons for living and sleeping quarters, but shall not include multi-family housing, hotels, motels, or other buildings intended primarily for transient lodging. RESIDENTIAL BUILDINGS shall also include outbuilding, barns, and other structures which are not defined as commercial or institutional buildings as defined herein.

UNDERGROUND PIPELINE UTILITY. An underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute gas, oil, petroleum products, and other similar substances.

VACANT PARCEL. Any property parcel that does not include any building improvements.

(Ord. passed - -)

§ 34.03 CONFLICTS.

In the event of any conflict between the provisions of this chapter and applicable provisions of state law, rules, or regulations, the latter shall prevail.

(Ord. passed - -)

§ 34.04 FIRE SERVICE CHARGES IN GENERAL.

(A) The collection of fire service charges for the provision of Fire Response and Emergency Medical Response shall be pursuant to M.S. §§ 366.011 and 415.01, as they may be amended from time to time, and any other applicable statute. Collection of unpaid service charges shall be as authorized in M.S. § 366.012, as it may be amended from time to time.

(B) Said fees shall be charged as set forth in division § 34.05.

(C) For incidents where a fee is charged, the fee shall be calculated on the basis of the personnel and equipment which respond to the incident as set forth in the fee schedule in Chapter 36 of this code of ordinances. All personnel and equipment provided by other fire departments pursuant to a mutual aid request of the city's Fire Department shall be billed as if such personnel and equipment were provided by the city's Fire Department.

(D) When a particular service rendered by the Fire Department directly benefits more than one person or property, the owner of each property so benefitted and each person so benefitted shall be liable for the payment of the full charge for such service to his or her respective property or person.

(E) Parties billed the fire service charge will have 30 days to pay. If the service charge is not paid by that time, it will be considered delinquent and the city will send notice of delinquency.

(F) If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the city will use all practical and reasonable legal means to collect the service charge including the provisions of M.S. § 366.012, as it may be amended from time to time. The party receiving the service shall be liable for all collection costs incurred by the city including, but not limited to, administrative costs, attorneys' fees, recording fees, and court costs.

(G) Any party aggrieved by a charge authorized in this chapter may appeal the charge as follows.

(1) Within the time period for which a bill is payable, the party shall file a written request with the City Clerk setting forth specific reasons why the charge is improper.

(2) The City Clerk shall notify the aggrieved party, in writing, of the time, place, and date the City Council will hold a hearing on the issue.

(3) The City Council may grant relief on appeal if it finds good cause and sufficient proof to satisfy the Council.

(4) The City Council may extend the time for payment for a reasonable period.

(Ord. passed - -)

§ 34.05 FIRE SERVICE CHARGES.

The service charges for fire responses or emergency medical responses shall be as follows.

(A) Emergency medical response (non-motor vehicle incident).

(1) Emergency medical response (non-motor vehicle incident) is any medical response not involving a motor vehicle where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of any injured persons.

(2) With regard to emergency medical response (non-motor vehicle incident), there shall be no charge; provided, however, that should it be determined by the city that the medical response falls within divisions (B), (H), (I), and (J) as set out below, then an invoice for the cost of the Fire Department response to the medical emergency will be sent to the property owner or owner’s insurance company based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(B) Motor vehicle incident.

(1) A motor vehicle incident is any response involving a motor vehicle where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of any injured persons. This would include, but not be limited to: vehicle fire; extrication; medical care; absorbing liquid spills; vehicle system safety; vehicle stabilization; and traffic control.

(2) An invoice will be sent to the motor vehicle owner or owner’s insurance company for the cost of the Fire Department response to the motor vehicle incident based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(3) If there is more than one motor vehicle involved for which Fire Department service is provided, each motor vehicle owner or insurer will be invoiced an equal share of the service charge.

(C) Residential fire.

(1) A residential fire is any incident response to a fire involving a residential building as defined in this chapter.

(2) With regard to residential building fires, there shall be no charge; provided, however, that should it be determined by the city that the residential fire response falls within divisions (I), (J), or (K) as set out below, then an invoice for the cost of the Fire Department response will be sent to the property owner, hazardous waste generator, person(s) charged with arson who set the fire, and/or the person(s) charged with an illegal crime which contributed to the need for fire response. All such charges shall be based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(D) Commercial or institutional building fire response.

(1) A commercial or institutional building fire is any incident response to a fire involving a commercial or institutional building as defined in this chapter.

(2) With regard to commercial or institutional building responses by the Fire Department, an invoice will be sent to the property owner or owner’s insurance company for the cost of the Fire Department response to the commercial or institutional incident based on the fee schedule set forth in Chapter 36 of this code of ordinances, but only when the response requires the assistance of one or more other fire departments responding pursuant to a call for mutual aid by the incident commander at the scene.

(E) Grass fires within a state trunk highway or county right-of-way.

(1) A grass fire is any incident response to a grass fire within or outside of the right-of-way of a state trunk highway, county road, or city road if the fire originated within the right-of-way of a state trunk highway, county road, or city road as defined in M.S. § 161.465, as it may be amended from time to time.

(2) An invoice will be sent to the State Commissioner of Transportation or to the County Administrator for costs incurred by the Fire Department to respond based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(F) Technical rescue.

(1) A technical rescue is any incident response to a rescue on the water, ice, confined space, trench, high or low level where specialized equipment and training are required and where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of the persons in need of rescue.

(2) An invoice will be sent to the person, entity, or business receiving rescue service for costs incurred by the Fire Department to respond based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(G) Search and rescue.

(1) A search and rescue is any incident response to a search and/or rescue of a missing person where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of the person in need of rescue.

(2) With regard to search and rescue services, there shall be no charge.

(H) Underground pipeline utility breaks.

(1) An underground pipeline utility break is any incident response to an underground pipeline utility break.

(2) An invoice will be sent to the excavator or person responsible for the pipeline utility break or to the owner or operator of the pipeline for costs incurred by the Fire Department to respond based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(3) In addition, the bill for service shall also include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment.

(I) Hazardous material.

(1) A hazardous material incident is any response to the release of hazardous material from its container, or the threat of a release of a hazardous material from its container, chemical reaction, or other potential emergency as the result of a hazardous material where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions or protect the public.

(2) An invoice will be sent to the person responsible for the hazardous material or transportation of the hazardous material for costs incurred by the Fire Department to respond based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(3) In addition, the bill for service shall include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment.

(J) Fire as the result of illegal activities.

(1) A fire as the result of illegal activities is any incident response to a fire that resulted from illegal activities occurring on the property as defined in this chapter. Examples of this would include, but not be limited to, methamphetamine labs, commercial and industrial operations where a necessary permit or license is required but has not been obtained from the city, or the burning of debris without a properly issued burn permit.

(2) An invoice will be sent to the property owner, owner's insurance company, and/or the person(s) responsible for the illegal activity for costs incurred by the Fire Department to respond based on the fee schedule set forth in Chapter 36 of this code of ordinances. The Fire Department reserves the right to seek reimbursement through restitution should the person responsible for the illegal activity be convicted of a crime related to the incident.

(3) In addition, the bill for service shall include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment.

(K) Arson fire.

(1) An arson fire is any incident response to a fire where a person is charged under state law.

(2) An invoice will be sent to the property owner, owner's insurance company, and/or the person charged with the arson for costs incurred by the Fire Department to respond based on the fee schedule set forth in in Chapter 36 of this code of ordinances.

(3) In addition, the bill for service shall include any cost of cleanup of any contaminated equipment and/or repair of any equipment damaged during the incident or its replacement, along with replacement of any disposable equipment, supplies, and/or communication equipment.

(4) The Fire Department reserves the right to seek reimbursement through restitution should the person responsible for the fire be convicted of a crime related to the incident. The fire investigator responsible for the incident investigation will forward all costs expended by the Fire Department in association with the incident to the court for reimbursement through restitution.

(L) Fire on vacant land.

(1) A fire on vacant land is any incident response to a fire involving a fire on vacant parcel as defined in this chapter.

(2) An invoice will be sent to the property owner or owner's insurance company for costs incurred by the Fire Department to respond based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(M) Fire watch. Fees for personnel to stand by on fire watch due to unusual fire hazards or while waiting for the property owner or tenant to respond to the scene following a fire incident and/or fire alarm, may be billed to the owner of the property or the tenant, or both, on a per hour basis with a one hour minimum. If a fire watch is established at a property, the watch shall be maintained until the owner of the property, the tenant, or his or her designated representative arrives at the property and takes over responsibility for monitoring fire safety, or until the Fire Department personnel on the scene determine that such responsible person either cannot be located or is unwilling to take over responsibility for monitoring fire safety, or until the Fire Department personnel on the scene determine that a fire watch is no longer necessary. An invoice will be sent to the property owner for costs incurred by the Fire Department for a fire watch based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(N) Preventative fire watch. Fees for personnel to stand by on preventative fire watch may be billed to the owner of the property or the tenant, or both, on a per hour basis with a one hour minimum. An invoice will be sent to the property owner for costs incurred by the Fire Department for a preventative fire watch based on the fee schedule set forth in Chapter 36 of this code of ordinances.

(Ord. passed - -)

§ 34.06 FEES.

ATV/UTV with water tank
Car fires/accidents (nonresidential)
Command vehicle/utility or grass truck
Engines - all types
Extra personnel
Fire investigation team (county-wide response team)
Fire watch
Heavy rescue/rescue/ambulance
Ladder/aerial
Preventative fire watch
Special response unit (county-wide response team)
Water tender

(Ord. passed - -)

CHAPTER 35: FIRE DEPARTMENT

Section

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GENERAL PROVISIONS

§ 35.01 DEPARTMENT ESTABLISHED; PURPOSE; ORGANIZATION.

(A) There is hereby continued in the city and for its benefit a Fire Department, whose mission is to respond to fire, rescue, hazardous material, and other emergencies, to investigate the cause of fires, and to prevent fires and promote safety in the community.

(B) The Fire Department shall be administered by a Fire Chief.

(C) The Fire Department shall have officers subordinate to the Fire Chief who shall assist in management of Fire Department duties and functions. The Fire Department chain of command shall be defined in the Fire Department’s Standard Operating Guidelines. The Fire Chief shall develop administrative policies.

(D) The Fire Department shall have staff to respond to fires and other emergencies that may occur within the city and contract townships. The Fire Chief shall recommend to the City Administrator for consideration by

the City Council a staffing plan for the Fire Department, which shall be adopted as part of the Fire Department Standard Operating Guidelines.

§ 35.02 FIRE CHIEF.

(A) The Fire Chief shall be appointed by the City Council upon recommendation from the membership of the Department. The Fire Chief shall be under the direction of the Council, but report to the City Administrator, for general policy-making and administrative control, directing, planning, and coordinating all activities of the Fire Department, including, but not limited to, fire protection and emergency response, fire prevention and safety educational services, training and safety of personnel, and fire station facilities, vehicles, and equipment assigned to the Fire Department. Specific duties of the Fire Chief shall be prescribed in a job description prepared by the City Human Resources Director in consultation with the City Administrator.

(B) For periods of absence from the city up to 60 days, the Fire Chief shall appoint an acting Fire Chief. For periods of absence longer than 60 days, the City Council shall approve the appointment of an Acting Fire Chief (normally the Assistant Chief).

§ 35.03 PERSONNEL.

All employees of the Fire Department shall perform such duties and functions as are prescribed in job descriptions which shall be prepared for each position by the Fire Chief in consultation with the City Human Resources Director. The City Council may consider, at its discretion, through the City Administrator, the recommendations of the Fire Chief in these matters.

§ 35.04 STANDARD OPERATING GUIDELINES.

(A) The Fire Chief shall recommend to the City Administrator for approval by the City Council a set of Standard Operating Guidelines for operation and administration of the Fire Department.

(B) The city’s personnel policies, as approved by the City Council and as subsequently amended by authorization of the Council, shall apply to Fire Department employees, including paid-on-call firefighters and officers in their capacity as such. Any conflict between the city personnel policies and Fire Department Standard Operating Guidelines, internal administrative policies, and operational procedures shall be decided in favor of the most restrictive policy.

(C) The Fire Chief shall prepare operational procedures and administrative policies as deemed necessary for the efficient operation of the Department. Operational procedures and administrative policies shall not require approval of the City Council.

§ 35.05 FIREFIGHTER'S RELIEF ASSOCIATION.

(A) There is hereby continued in the city a firefighter's relief association, whose function is to manage service pension benefits for paid-on-call firefighters, which are authorized under state statutes, and to provide other services to paid-on-call firefighters of the city's Fire Department as deemed appropriate by members of the association.

(B) Any proposed change to the association's bylaws or articles of incorporation which will affect the benefits paid from the association's special fund shall not be effective until ratified by the City Council.

§ 35.06 EMERGENCY OPERATIONS.

The Fire Department shall utilize the national incident command system to effectively and safely conduct emergency incident operations. The first arriving fire officer shall be in command of Fire Department response functions at the scene of any emergency incident until command is transferred to another officer. The Fire Department commander on the scene of any emergency incident shall coordinate with other emergency response agencies to ensure safe and efficient operations.

§ 35.07 AUTHORITY AT EMERGENCY SCENES.

(A) The Fire Chief or any fire officer or firefighter in charge at the scene of a fire or other emergency involving the protection of life or property shall have the authority to direct such operations as may be necessary to limit or mitigate the threat of injury to persons, or damage to property or the environment, extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations, or taking any other action necessary in the reasonable performance of duty. In the exercise of such power, the Fire Chief or any other fire officer or firefighter is authorized to prohibit any person, vehicle, vessel, aircraft, or thing from approaching the scene and is authorized to remove or cause to be removed, towed, or kept away from the scene any person, vehicle, vessel, aircraft, or thing which may impede or interfere with the operations of the Fire Department. Any person violating this section shall be guilty of an offense punishable as a misdemeanor.

(B) The Fire Chief or any fire officer or firefighter in charge at the scene of an emergency is authorized to place ropes, guards, barricades, or other obstructions across any street, highway, alley, place, or private property in the vicinity of such operation so as to prevent accidents or interference with the lawful efforts of the Fire Department to manage and/or control the situation.

Penalty, see § 35.99

§ 35.08 INVESTIGATION OF EMERGENCY INCIDENTS.

The Fire Chief shall investigate or cause to be investigated the cause, origin, and circumstances of each and every fire occurring within the city pursuant to M.S. Ch. 299F, as it may be amended from time to time.

§ 35.09 MUTUAL AID.

The Fire Chief or his or her designee is authorized to respond to requests for mutual aid assistance in the form of Fire Department resources from any political subdivision within the state, agencies of the state, and federal agencies, for assistance within the state, pursuant to M.S. Ch. 12, as it may be amended from time to time, provided the emergency response needs of the city are not compromised and the City Administrator or his or her respective designee is notified when city Fire Department personnel and/or resources shall be committed to the mutual aid response in excess of 12 hours.

§ 35.10 SERVICE FEES.

(A) Establishment. The City Council may, by ordinance, set forth fees for fire protection service and/or emergency response, which are not otherwise specified by contract. Such fees may be established at a fixed rate for certain specific types of incidents or for actual costs incurred by the Fire Department in responding to the incident. The Fire Chief shall make a recommendation annually to the City Administrator for approval by the Council regarding the fee to be charged for each service noted in this section.

(B) False alarms. Fees for response to false fire alarms may be charged to the property owner or tenant for any incident per Department policy.

(C) Impoundment of vehicles and property. The Fire Chief or his or her designate is authorized to impound vehicles or property related to a fire and/or hazardous materials release to be held in a secure location until such

time as payment is received for Fire Department response to the incident pursuant to this division (C) and/or the vehicle or property may be transported without further risk of injury to the public or damage to the environment.

§ 35.11 PREMISES IDENTIFICATION.

Section 505 of the 2015 Minnesota State Fire Code is hereby amended by adding the following language:

(1) General.

a. Approved numbers or addresses in compliance with the requirements of the city code shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background. Buildings, which have a range of addresses for one building, shall display the range of numbers or addresses from lowest to highest as required above.

b. Buildings with multiple tenants/addressees shall place approved numbers or addresses on front and rear doors identifying each address in the manner required in division (1)a. of this section.

c. Buildings that are remote/auxiliary from the main building shall display approved numbers or addresses on each building in the manner required in division (1)a. of this section and in such a manner as to be visible from either direction of travel on the road or street fronting the property.

d. If any building is too remote from the fronting road or street to make it unreasonable to be seen from the fronting road or street, a sign or post with visible and legible approved numbers or addresses, or range of numbers or addresses from lowest to highest, shall be placed at the driveway entrance in such a manner that the numbers or addresses are visible from either direction of travel on said road or street.

e. Approved numbers of addresses shall be placed on all construction sites in such a position as to be plainly visible and legible from the street or road fronting the property.

CLEANUP OF CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES

§ 35.25 GENERAL PROVISIONS.

(A) Purpose and intent. The purpose of this subchapter is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab site or associated dump site may exist. Professional reports, based on assessments, testing, and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment of surrounding structures. The City Council finds that such sites, and the personal property within such sites, may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site or using or being exposed to contaminated personal property.

(B) Interpretation and application. In the interpretation and application of this subchapter, the provisions herein shall be construed to protect the public health, safety, and welfare. Where the conditions imposed by any provision of this subchapter are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail. Should any court of competent jurisdiction declare any section or subpart of this subchapter to be invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof, other than the provision declared invalid.

§ 35.26 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHEMICAL DUMP SITE. Any place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.

CHILD. Any person less than 18 years of age.

CITY. The City of Monticello.

CLANDESTINE DRUG LAB OPERATION. The unlawful manufacture or attempt to manufacture a controlled substance.

CLANDESTINE DRUG LAB SITE. Any place or area where law enforcement has determined that conditions associated with an unlawful clandestine drug lab operation exist. A CLANDESTINE DRUG LAB SITE may include dwellings, accessory buildings, structures, or units, a chemical

dump site, a vehicle, boat, trailer, or other appliance or any other area or location.

CONTROLLED SUBSTANCE. Any drug, substance, or immediate precursor in M.S. § 152.02 Schedules I through V, as they may be amended from time to time, together with any amendments or modifications thereto. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

HAZARDOUS WASTE. Waste generated from a clandestine drug lab operation.

MANUFACTURE, IN PLACES OTHER THAN A PHARMACY. Includes the production, cultivation, quality control, and standardization, by mechanical, physical, chemical, or pharmaceutical means, and the packing, repacking, tableting, encapsulating, labeling, relabeling, or filling of drugs.

OWNER. Any person(s), firm(s), corporation(s), or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a clandestine drug lab site or chemical dump site.

§ 35.27 DECLARATION OF SITE AND CONTENTS AS A PUBLIC HEALTH NUISANCE.

All dwellings, accessory structures, buildings, vehicles, boats, trailers, personal property, adjacent property, or other locations, associated with a clandestine drug lab site or chemical dump site are potentially unsafe due to health hazards and are hereby declared to be a public health nuisance.

§ 35.28 LAW ENFORCEMENT ACTION.

(A) If law enforcement authorities determine the existence of a clandestine drug lab site or chemical dump site, the site, and all personal property herein, shall be declared a public health nuisance.

(B) Law enforcement authorities who identify conditions associated with a clandestine drug lab site or chemical dump site which may place neighbors, the visiting public, or present and future occupants of the site at risk for exposure to harmful contaminants and other associated conditions are authorized to take the following action:

(1) Promptly notify the City Building Official, child protection, public health authorities, and the appropriate enforcement division of the Drug Enforcement Administration of the U.S. Justice Department of the location of the site, and the owner if known, of the conditions found;

(2) Treat, store, transport, or dispose of all hazardous waste found at the site in a manner consistent with State Department of Health, State Pollution Control, and County Health Department Standard Operating Guidelines;

(3) Issue a temporary declaration of public health nuisance for the affected site and post a copy of the declaration on all doorway entrances to the site or, in the case of bare land, post the declaration in several conspicuous places on the property. This temporary declaration of public health nuisance issued by law enforcement shall expire after the City Building Official inspects the site and determines the appropriateness of issuing a permanent declaration of public health nuisance;

(4) Notify all persons occupying the site that a temporary declaration of public health nuisance has been issued;

(5) Require all persons occupying the site to immediately vacate the site, remove all pets from the site, and not return without written authorization from the City Building Official;

(6) Notify all occupants vacating the site that all personal property at the site may be contaminated with dangerous chemical residue; and

(7) Secure each doorway entrance to the site to reasonably prohibit people from entering the site without authorization after all occupants of the site have vacated.

(C) The obligation to promptly notify the persons and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

§ 35.29 SEIZURE OF PROPERTY.

When the clandestine drug lab site or chemical dump site is inside a vehicle, boat, trailer, or other form of moveable personal property, law enforcement authorities shall immediately seize it and not allow it to be transported except to a more secure location. In such circumstances, all other requirements of this subchapter shall be followed as closely as possible given the specific type of property in which the site is discovered.

§ 35.30 ACTION BY CITY BUILDING OFFICIAL.

(A) Inspection and declaration of nuisance. Within 48 hours of notification that law enforcement authorities have determined the existence of a clandestine drug lab site or chemical dump site, the City Building

Official shall inspect the site to determine the appropriate scope of a permanent declaration of public health nuisance. Based on the results of the inspection, the City Building Official or his or her designated representative may then promptly issue a permanent declaration of public health nuisance and a do not enter-unsafe to occupy order for the affected site to replace the temporary declaration issued and posted by law enforcement. A copy of the permanent declaration and order shall be posted on all doorway entrances to the site or, in the case of bare land, shall be posted in several conspicuous places on the property.

(B) Abatement order.

(1) After the permanent declaration of public health nuisance has been issued and posted, the City Building Official shall send written notice to the site owner ordering abatement of the public health nuisance.

(2) The abatement order shall include the following information:

(a) A copy of the declaration of public health nuisance and do not enter-unsafe to occupy order;

(b) Information about the potentially hazardous condition of the site;

(c) Notification of suspension of the site's rental license if applicable;

(d) A summary of the site owner's and occupant's responsibilities under this subchapter; and

(e) Information that may help the owner locate appropriate services necessary to abate the public health nuisance.

(C) Notice to concerned parties. The Building Official or appropriate city staff shall also mail a copy of the permanent declaration of public health nuisance, a copy of this subchapter, and a notification of the suspension of the site's rental licensees, if applicable, to the following, but not limited to, concerned parties at their last known address:

(1) Occupants or residents of the site if the identities of such persons are known;

(2) Neighbors in proximity to the site who may be reasonably affected by the conditions found;

(3) The City Administrator;

(4) The Community Development Director;

(5) The City Police Department;

(6) The appropriate enforcement division of the Drug Enforcement Administration of the U.S. Justice Department;

(7) The city Fire Department; and

(8) Other city, state, and local authorities, such as the City Water Department, the State Pollution Control Agency, the State Department of Health, and the Department of Natural Resources which are known to have public and protection responsibilities that are applicable to the situation.

(D) Modification or removal of declaration. The City Building Official is authorized to modify or remove the declaration of public health nuisance after the Building Official receives documentation from a city approved environmental hazard testing and cleaning firm that holds the necessary federal and state licenses and meets all applicable regulations for hazardous materials site remediation, packaging, and shipping stating that the suspected health and safety risks, including those to neighbors and potential dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

§ 35.31 SITE OWNER'S RESPONSIBILITY TO ACT.

(A) Within ten business days of the date the abatement order is mailed to the owner of the site, the owner shall accomplish the following:

(1) Provide the City Building Official with written notification:

(a) The owner has confirmed that all persons and their pets have vacated the site;

(b) Of the name(s) of all children who the owner believes were residing at the site during the time period the clandestine drug lab or chemical dump site is suspected to have been at the site; and

(c) The site will remain vacated and secured until the public health nuisance is completely abated as required by this subchapter.

(2) Contract with one or more city approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current state department of health guidelines:

(a) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;

(b) Soil testing of the site and testing of all property and soil in proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;

(c) A complete clean-up of the site (including, but not limited to, the clean up or removal of plumbing, ventilation systems, fixtures, and

contaminated soil) or a demolition of the site and a complete clean-up of the demolished site;

(d) A complete clean up, or disposal at an approved dump site, of all personal property in the site;

(e) A complete clean-up of all property and soil in proximity to the site which is found to have been affected by the conditions found at the site; and

(f) Remediation testing and follow-up testing, including, but not limited to, testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced, according to State Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein and of all property and soil in proximity to the site.

(3) Provide the City Building Official with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and

(4) Sign an agreement with the City Building Official establishing a clean-up schedule. The schedule shall establish reasonable deadlines for completing all actions required by this subchapter for abatement of the public health nuisance. In determining appropriate deadlines, the City Building Official shall consider practical limitations and the availability of contractors in approving the schedule for clean-up.

(B) The site owner must meet all deadlines established on the clean-up schedule. Also, pursuant to the deadlines established by the clean-up schedule, the site owner is required to provide the City Building Official with written documentation of the clean-up process, including a signed statement from a city approved environmental hazard testing and cleaning firm that the site, all personal property therein and all property and soil in proximity to the site, is safe for human occupancy and use and that the clean-up was conducted in accordance with the most current State Department of Health guidelines.

§ 35.32 SITE OWNER’S RESPONSIBILITY FOR COSTS.

(A) The site owner shall be responsible for all costs, including those of the city, of dealing with and abating the public health nuisance, including contractor’s fees and the city’s costs for services performed in association with the clandestine drug lab site or chemical dump site clean-up.

(B) The city’s costs may also include, but shall not be limited to:

(1) Posting of the site;

(2) Notification of affected parties;

(3) Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;

(4) Expenses related to the recovery of costs, including the assessment process;

(5) Laboratory fees;

(6) Clean up services;

(7) Administrative fees;

(8) Legal fees; and

(9) Other associated costs.

§ 35.33 CITY ACTION AND RECOVERY OF COSTS.

(A) If the building owner fails to comply with any of the requirements of this subchapter, the City Building Official is authorized to take all reasonable actions necessary to abate the public health nuisance including, but not limited to, contracting with a city approved environmental hazard testing and cleaning firm that holds the necessary federal and state licenses and meets all applicable regulations for hazardous materials site remediation, packaging, and shipping in order conduct the work outlined in § 35.30(B). The Building Official is also authorized to provide a copy of the declaration of public health nuisance to the lien and/or mortgage holders of the affected site to help assure that persons with interest in the site have access to information about the declaration of public health nuisance.

(B) If the costs to clean the site or to clean the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the city is authorized to remove or demolish the site, structure, or building and/or dispose of the personal property therein. These actions shall be taken in accordance with the provisions of M.S. Ch. 463, as it may be amended from time to time.

(C) If the city abates the public health nuisance, in addition to any other legal remedy, the city shall be entitled to recover all of its out of pocket costs plus an additional 25% of such costs for administrative and legal expense. The city may recover costs by civil action against the owner of the site or by assessing such costs as a special charge against the site as taxes and special assessments are certified and collected pursuant to M.S. § 429.101, as it may be amended from time to time, or according to the provisions of M.S. Ch. 463, as it may be amended from time to time.

§ 35.34 RECOVERY OF COSTS FROM PERSONS CAUSING DAMAGE.

No provisions of this subchapter are intended to limit the site owner's, resident's, or the city's right to recover costs incurred under this subchapter from either the persons contributing to the public health nuisance, such as the operators of the clandestine drug lab, and/or from other lawful sources.

§ 35.35 SITE OWNER AND ADDRESS.

When the site is real property and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the property's taxpayer's name and address as that information is maintained by the County Auditor's office. When the site is a vehicle, boat, or trailer and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat, or trailer.

§ 35.36 SUSPENSION OF RESIDENTIAL RENTAL LICENSE.

Upon issuance of a permanent declaration of public health nuisance, any residential rental license issued by the city for the site, or any part thereof, is hereby declared to be immediately suspended pending full compliance with this subchapter.

§ 35.37 UNAUTHORIZED REMOVAL OF POSTINGS.

It is unlawful for any person, except authorized city personnel, to remove a temporary or permanent declaration of public health nuisance and/or do not enter-unsafe to occupy order from a chemical dump site or a clandestine drug lab site.

Penalty, see § 35.99

§ 35.38 ENTRY INTO OR ONTO SITE.

While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no persons are permitted to be inside the site, or on the site property without prior written consent of the City Building Official or as otherwise authorized by this subchapter. To confirm

compliance with this subchapter and to execute their duties under this subchapter, law enforcement officers, the City Building Official, and any persons designated by the Building Official may enter onto the site property or enter into the site at any time while a declaration of public health nuisance is in effect for the site.

§ 35.39 REMOVAL OF PERSONAL PROPERTY FROM THE SITE.

(A) While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no personal property may be removed from the site without prior written consent from the City Building Official.

(B) Consent to remove personal property shall only be granted at the reasonable discretion of the Building Official, and only in cases of hardship after:

(1) A city approved environmental hazard testing and cleaning firm has advised the city, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and

(2) The owner of the personal property agrees in writing:

(a) The owner is aware of the danger of using the contaminated property;

(b) The owner will thoroughly clean the property to remove all contamination before the property is used; and

(c) The owner releases and agrees to indemnify the city, its staff, and the City Council from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.

PUBLIC SAFETY 800 MHZ RADIO BUILDING AMPLIFICATION SYSTEM

§ 35.50 GENERAL.

Except as otherwise provided, no person shall erect, construct, change the use of, or provide an addition of more that 20% to, any building or structure or any part thereof, or cause the same to be done which fails to support adequate radio coverage for the Minnesota Regional Radio Communications System, including, but not limited to, firefighters and police officers. This section shall not apply to: buildings of less than 8,500 square feet; or any building constructed of wood frame; provided none of

the aforementioned buildings make use of any metal construction or any below grade levels or parking areas. Any part of any R-3 occupancy building, including below grade levels and parking areas, are exempt from the requirements of this section. For the purposes of this section, parking structures and stairwells are included in the definition of BUILDING and stair shafts and elevators are included in the definition of ALL PARTS OF THE BUILDING. For purposes of this section, ADEQUATE RADIO COVERAGE shall be an average received field strength of no less than -93 dBm, or 1% BER, measured at 30 to 36 inches above the floor over 90% of the area of each floor and other critical areas determined by the Fire Chief or the Fire Chief's designee such as fire command centers, stairwells, elevators, high hazard areas, basements, and parking areas. Without an in-building radio system, only the received signal level standard must be achieved as the talk out path is equivalent to the talk in path in this regional radio system.

§ 35.51 AMPLIFICATION SYSTEMS ALLOWED.

Buildings and structures which cannot support the required level of radio coverage shall be equipped with either a radiating cable system or an internal multiple antenna system with or without FCC type accepted bi-directional 800 MHZ amplification as needed. If amplification is used in the system, all required FCC authorizations must be obtained prior to the use of the system. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least 12 hours without external power input. The battery system shall automatically charge in the presence of an external power input.

§ 35.52 TESTING PROCEDURES; ACCEPTANCE TEST PROCEDURE.

With or without an in-building radio system, it will be the building owner's responsibility to have the regional radio system performance tested to ensure that two-way coverage on each floor of the building is a minimum of 90% of the total floor area and the critical areas designated.

(A) Talk-in from the regional radio system coverage testing.

(1) The talk-in coverage testing process shall be the same for buildings with and without in- building amplification systems.

(2) During test measuring, the center of the test equipment receive antenna shall be between 30 and 36 inches above the floor.

(3) On each floor of a building to be tested, the floor space, except for designated critical areas, shall be divided into square or rectangular areas of approximately the same size and shape. Each floor shall have at least ten grid areas; however, the maximum size of grid areas shall not exceed 2,500 square feet. In buildings with support columns laid out in a grid, the corners of the each grid may be arranged at the columns for ease in identifying grid comers while testing is in progress. In buildings, such as a warehouse, with large open areas, tests shall be conducted near the center of each grid although the exact center may not be easily accessible due to the location of large machinery, storage racks, and the like. In buildings with divided office spaces, with or without floor to ceiling partitions, tests shall be conducted in an office at or near the center of a grid. In buildings with a large open area and an attached two-story, split level office or other area, the lower level of the two-story, split level attachment shall be considered as an extension of the large open area.

(4) In multi-story buildings and parking ramps, testing shall begin at the lowest level, including any subgrade level(s), and continue up one floor at a time. In-building amplification may only be required on the lowest level or levels of a multi-story building or parking ramp.

(5) Average radio signal field strength shall be measured and recorded in each grid, and in each designated critical area defined above. Average field strength may be obtained through use of an instantaneous measuring instrument and a computer that samples the actual field strength at very short time intervals and averages the sample values. As an alternative, a field strength measuring instrument with an analog or digital readout of average field strength may also be used. Measurements shall be made while the measuring instrument is moved over a distance of four to ten feet. If the average field strength varies over the measurement path, the lowest (most negative) value shall be recorded. The test instrumentation used shall have been calibrated within the six-month period prior to the testing.

(6) The percentage of area passed shall be calculated as 100 times the result of dividing the number of grids and critical areas that are at least at -93 dBm or 1% BER by the total number of grids and critical areas tested.

(7) The donor antenna in an in-building amplification system may receive up to 87 800 MHZ radio frequencies of approximately equal field strength from the regional system, plus some others of approximately equal field strength from other radio systems. At any time, the donor antenna may be receiving at least 60 radio frequencies of approximately equal level in the pass band ranges. For that reason, it shall be assumed that the output level of talk-in amplifiers will be at + 3.2 dBm per channel maximum. Therefore, grid and critical areas tests shall be conducted while the headend amplifier is disconnected and a signal of + 3.2 dBm is inserted into the connector downstream from the headend amplifier.

(8) Any in-building talk-in amplification system shall have pass band filters before the input to the first (headend) amplifier that shall pass 806 to 817 MHZ and 821 to 824 MHZ only. In the future, within six months after notification by the Fire Chief or his designee, the pass band filter frequency range shall be changed in accordance with instructions, or an additional pass band filter for 700 MHZ band frequencies shall be added. When the donor antenna is installed, the average signal level received on the Hennepin East site control channel shall be measured at the antenna connector. A signal at that average received signal level shall be inserted into the cable to the headend amplifier and filter while the output level of the headend amplifier is measured, and the output level of the amplifier shall be set at + 29 + 1 dBm.

(9) Alternative in-building amplification systems that do not involve broadband pass band filters will be accepted provided that similar testing can be demonstrated.

(B) Talk-out to the regional radio system testing.

(1) With an in-building amplification system, the talk-out (to the regional 800 MHZ radio system) shall be measured at the same grid and critical area locations as the talk-in measurements were made. The measurements shall be made using a three-watt portable radio with a well-charged battery to transmit into the in-building radio system while field strength is measured out of the connector that is normally attached to the donor antenna. To pass, the field strength at the donor antenna shall be the measured value at the connector plus the donor antenna gain and minus a free space loss factor. The free space loss factor shall be -93 dB for a distance of one mile to the nearest Hennepin East base radio location, adjusted by 6 dB each time the distance is halved or doubled. The acceptable range for passing shall be between -65 and -95 dBm.

(2) (a) Gain values of all amplifiers shall be measured and the test measurement results shall be kept on file with the building owner so that the measurements can be verified each year during the annual tests.

(b) In the event that the measurement results become lost, the building owner will be required to rerun the acceptance test to reestablish the gain values.

§ 35.53 ANNUAL TESTS.

When an in-building radio system is required, the building owner shall test all active components of the system, including, but not limited to, amplifiers, power supplies, and backup batteries, a minimum of once every 12 months. Amplifiers shall be tested to ensure that the gain is the same as it was upon initial installation and acceptance. Backup batteries and power

supplies shall be tested under load for a period of one hour to verify that they will properly operate during an actual power outage. If within the one-hour test period, in the opinion of the testing technician, the battery exhibits symptoms of failure, the test shall be extended for additional one-hour periods until the testing technician confirms the integrity of the battery. All other active components shall be checked to determine that they are operating within the manufacturer's specifications for the intended purpose.

§ 35.54 FIVE-YEAR TESTS.

In addition to the annual test, the building owner shall perform a radio coverage test a minimum of once every five years to ensure that the radio system continues to meet the requirements of the original acceptance test. A radio test shall also be performed whenever there is a change in or to the building that may have an impact on coverage. Examples of the types of changes that may change radio coverage are interior remodeling that adds and/or changes partitions, removal of windows, and the addition of metalized treatment to window surfaces. The procedure described in section shall be used for these tests.

§ 35.55 QUALIFICATIONS OF TESTING PERSONNEL.

(A) All tests shall be conducted, documented, and signed by qualified and competent personnel that includes: persons in possession of a current FCC license; or a current technician certification issued by the Associated Public-Safety Communications Officials International (APCO) or the Personal Communications Industry Association (PCIA); or a qualified radio engineer licensed as a registered professional engineer by the State of Minnesota. Testing personnel shall have test equipment that is appropriate for the testing procedure, and that test equipment shall have been calibrated within six months prior to the testing.

(B) All test records shall be retained on the inspected premises by the building owner and a copy shall be submitted to Fire Department officials.

§ 35.56 FIELD TESTING.

Fire and police personnel, after providing reasonable notice to the owner or the owner's representative, shall have the right to enter onto the property to conduct testing to be certain that the required level of radio coverage is present.

§ 35.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person convicted of violating any of the provisions of §§ 35.01 through 35.11 shall be guilty of a misdemeanor.

(C) Any person violating any of the provisions of §§ 35.25 through 35.39 shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with § 10.99. Each act of violation and every day upon which a violation occurs or continues shall constitute a separate offense. In addition to the above, the city may seek civil penalties and enforcement.

CHAPTER 36: FEE SCHEDULE

Section

36.01 Fee schedule

§ 36.01 FEE SCHEDULE.

Fee schedule rates supersede amounts shown in city ordinances or policies which are dated prior to the fee schedule.

ANIMAL CONTROL

Boarding fee

$22/per day + tax

Boarding access fee

$250 per entity

Dog license

$20 - 2 years

$10 - 1 year

Late fee

$5

Replacement tag

$2 + tax

Disposal fee

$230 (euthanized animal)

$40 (adopted animal)

Licensed

Unlicensed

Fine: Running at large

$50

$75

If impounded

Add boarding fee (plus tax)

Permit for keeping fowl on premises

$50

Annual renewal for current permit

$25

Permit for keeping honeybees on premises

$50

Annual renewal of permit

$25

CEMETERY

Cremation disinterment

Weekday

$200

Weekend

$250

Bronze memorial marker setting with 4" concrete border

$450

Frost charge: (excavations November through March)

$150

Grave excavation fee:

Weekday

$550

Weekend

$650

Infant grave excavation - weekday

$200

Infant grave excavation - weekend

$250

Cremation grave excavation - weekday

$150

Cremation grave excavation - weekend

$200

Companion urn grave excavation - weekday

$300

Companion urn grave excavation - weekend

$400

Grave purchasing fee:

Resident

Non-Resident

Full grave (4 ft. x 12 ft.) flush marker area

$1,150

$1,350

Full grave (4 ft. x 12) raised marker area

$1,250

$1,450

Infant grave (2 ft. x 6 ft.)

$425

$450

Cremation grave (4 ft. x 4 ft.)

$665

$765

Columbarium (includes 2 interment niche covers w/ name, YOB, YOD)

*if pre-planning additional fee for death date

Resident

Non-Resident

Bottom niche row (row E) - 2 remains max.

$2,540

$2,640

Middle niche rows (Rows C and D) - 2 remains max.

$2,740

$2,840

Top niche row (row A) - 2 remains max.

$2,940

$3,040

*Death Date (individual)

$160

$160

*Death Date (double)

$185

$185

Ossuary

Co-mingle urn placement (includes inscription and urn bag)

$1,000

Veteran co-mingle urn placement (includes inscription and urn bag)

$950

Service emblem

$200

Urn box

$80

Satin bag

$100

Grave staking fee for burials

$150

Staking for monument/marker placement

$60

Grave transfer fee

$15

Memorial plaque (bronze) stone

Cost + $10 + sales tax

Overtime fee (burials outside of business hours)

$125

Plant stand

$50

Opening and closing/Re-opening of niche

Weekday

$150

Weekend

$200

Perpetual care fee:

New grave sales

Included in grave price (Maint. not taxable - plant care taxable)

Grave sold pre-1996

$175

COMMUNITY CENTER

Membership fees: (for new members)

Resident Rate

Non-Resident Rate

MERSC/Military Rate

Daily pass:

Junior/senior

Adult

$8

$9

$9

$10

Three month membership:

Junior/senior

Adult

Dual senior

Family

Dual adult

$99

$139

$162

$244

$222

$124

$173

$203

$306

$277

$87

$121

$142

$214

$194

Annual membership (paid in full options):

Junior/senior

Adult

Dual senior

Family

Dual adult

$269

$368

$444

$625

$569

$337

$461

$555

$781

$711

$236

$322

$389

$547

$498

Continuous membership (monthly payment option**):

Junior/senior	$26
Adult	$40
Dual senior	$44
MCC Staff membership upgrade	$33
Family	$64
Dual adult	$58
NSF fee (if membership is not paid within the month)	$31

	$33
	$50
	$55
	$33
	$80
	$72
	$31
	$23

$35

$39

$56

$51

$31

**Automatic withdrawal

Collection fee - applies if sent to a collection service for delinquent payments (automatic withdrawal)

$50

$50

$50

Administrative fee for start-up of new monthly memberships (one- time fee) if membership is not cancelled

$30

$30

$50

Cancellation fee - applies if within 12 months of joining

$50

$50

$50

Childcare hourly fees

$2 per child/per hour member, $4 per child per hour non-member

Resident Rate

Non-Resident Rate

Special passes:

Daily pass (10 visits)

$75

$85

Special rates:

Indoor play area

$5

$6

Open skate

$6

$6

Shower only

-

$4

Group x class drop-in

$13

$13

Silver sneakers drop-in

$10

$10

Lock-in

$1,090/up to 40 people + $8.50 each

Climbing wall group

$120/up to 14 climbers + $7 each addition climber

Farmers market vendor fee

$90 - $120/season (based on booth type)

Concessions

Rates based on market value

Academy room non-profit allowed usage

Once/month up to 2 hours, then $25/hour

MCC league rates

Regular Rate

Fall youth baseball

$50/hour for one field (volunteer umpires)

Flag football

$70/hour for one field with lights (volunteer referees)

Hockey

$230/hour for one rink (with paid referees)

Pickleball

$50/hour for one court (with no referees)

Swimming lessons/birthday parties

Private swimming lessons

$33/lesson for members

$46/lesson for non-members

Additional rates available for more than 1 student or 4 lesson packages

Swimming lessons (group)

$61 for members

$75 for non-members

Resident Rate

Regular Rate

Birthday party room rental packages

Resident rate/child $17 - $20 depending on rental package

Regular rate/child $19 - $21 depending on rental packagev

Gymnasium rental rates:

Gym - regular

$127/hour

Gym - non-profit

$101/hour

Full kitchen

$137/hour

Energy fee

$134/hour

Gym advertising banner

$500/first year rental, $400/subsequent years

Damage deposit

1/2 of rental fees

Pool rental

$265/hour up to 25 swimmers

Additional staff fee: $30/hour (increments of 25 swimmers

Hourly room rental rates (2-hour minimum required):

Resident/Non-Profit

Non-Resident

Boom island room

$25

$27

Bridge room (half)

$23

$26

Bridge room (full)

$38

$44

Warehouse room

$51

$62

Prairie center

$51

$62

Mississippi room:

Private Resident

Private Regular

Business Resident

Business Regular

Half room rental

$79

$96

$62

$87

Full room rental

$111

$133

$94

$122

Rental event with alcohol (not weddings):

Resident

Regular

Organization

(2 hour minimum - reserve within 3 months of event)

$218/hour

$238/hour

$202/hour

Wedding

$1,430

$1,430

Bar fee	
$325	
$325	
Preferred caterer fee	
12% wedding	
8% non-wedding	
Add chapel rental	
$595 for 6 hours	
$632 for 6 hours	
Then $65 each additional hour	
Hostess fee	
$35/hour	
Locker fees	
$10 per month per locker / members only	
COMMUNITY DEVELOPMENT - BUILDING	
County Assessor fees:	
Building valuation $499,999 or less	$50
Building valuation $500,000 or more	$150
Basement finish	
106% of 1997 state recommended schedule	
Building inspection (non-permit related)	
$60/hour	
$15 minimum charge for 15 minutes or less	
Building permit fees	
106% of 1997 state recommended schedule	
Building permit surcharge	

Use state-mandated fee

Building re-inspection fee (after 2nd failed inspection)

$60

Contractor license check fee

$5

Building permit/records - duplicate

$60/hour

$15 minimum charge for 15 minutes or less

Blight processing fee

$60 (per parcel)

Demolition permit

106% of 1997 state recommended schedule ($500 maximum fee)

Permit is issued under a building permit (follow same procedures as issuing a building permit). Prior to demolition permit issuance verify with Public Works. Contractor must arrange disconnection: 1) sanitary sewer; 2) city water and retrieve water meter; and 3) approve routing for trucks and heavy equipment, (if applicable). Excavation permit may also be required.

Fire alarm/fire sprinkler system

106% of 1997 state recommended schedule or $100 minimum + state surcharge

Master plan review

25% of building permit fee

Mechanical permits:

Residential

$50 base + $9/fixture + state surcharge

Commercial

1.5% of valuation or $100 minimum+ state surcharge

Mobile home permit

$200

Moving buildings

$150 + expense + demolition permit

Plan review

65% of building permit fee

Plumbing permits:

Residential

Commercial

$50 base + $9/fixture (“Fixture” includes such things as traps, toilets, floor drains, sinks, showers)

1.5% of valuation or $100 minimum+ state surcharge

Rental application/records-duplicate

$60/hour

$15 minimum charge for 15 minutes or less

Rental housing license fee

$45/per building + $15 for each dwelling unit within the building

Rental housing license application/late fee

Double the standard license fee

Rental housing license transfer fee

$35

Rental re-inspection fee (after 2nd failed inspection)

$60

Residential building escrow

$2,000 (Held for completion of as-built survey, boulevard trees, turf establishment. Secures street sweeping, lot erosion control, and any damage to public improvements if all items not complete/satisfied at certificate of occupancy. All must be completed prior to release.)

Re-roof (residential)

$150 + state surcharge

Re-side (residential)

$150 + state surcharge

Solar systems: commercial/industrial

$106% of 1997 state recommended schedule + state surcharge

Solar systems: residential

$300 + state surcharge

Swimming pools - above ground

$150 + state surcharge

Swimming pools - in ground

$300 + state surcharge

Window replacement (residential)

$100 + state surcharge

Sign permits: permanent

$50 for first $1,000 of value (minimum fee $50)

$10 each additional $1,000 of value

Sign permits: temporary

$50

State surcharge on building permits:

Valuation of structure

Addition or alteration surcharge computation

$1,000,000 or less

.0005 x valuation

$1,000,000 to $2,000,000

$500 + .0004 x (value - $ 1,000,000)

$2,000,000 to $3,000,000

$900 + .0003 x (value - $2,000,000)

$3,000,000 to $4,000,000

$1,200 + .0002 x (value - $3,000,000)

$4,000,000 to $5,000,000

$1,400 + .0001 x (value - $4,000,000)

Greater than $5,000,000

$1,500 + .00005 x (value - $5,000,000)

Surveys

$15

Utility locate fee:

Residential

Commercial/industrial

$50

$65

COMMUNITY DEVELOPMENT - ECONOMIC DEVELOPMENT

Business subsidy application

$250

GMEF loan application

$550 minimum or 1.5% of loan amount, whichever is greater

SCDP loan application

$550 minimum or 1.5% of loan amount, whichever is greater

TIF application

$15,000 escrow deposit

COMMUNITY DEVELOPMENT - PLANNING/ZONING

Administrative home occupation permit

$50

Comprehensive plan amendment

$200 + escrow (per chart)*

Escrow waived for cross/joint parking in CCD

Conditional use permit

$200 + escrow (per chart)*

Escrow chart - land use application plan review

Commercial

Residential

0 - 3 acres

$2,000

1 unit

$1,000 single- family

4 - 10 acres

$6,000

2+ units

$1,000 base + $100 per unit (up to $10,000)

11+ acres

$8,000

*All escrows reconciled to actual costs for staff/consulting time after decision, whichever is greater

Escrow chart - development and subdivision project

Planning review and administration

1% of estimated public improvement cost or $2,000 minimum, whichever is greater*

Legal review and administration

1% of estimated public improvement cost or $2,000 minimum, whichever is greater*

Engineering; grading - review and inspection

3% of estimated site grading cost or $2,000 minimum, whichever is greater

Engineering; streets and utilities - review and inspection

4% of estimated public improvement cost or $2,000 minimum, whichever is greater

*All escrows reconciled to actual costs for staff/consulting time after decision, whichever is greater

Interim use permit

$200 + escrow (per chart)

Iron monuments

$300/lot

Labor (for community development/projects):

Construction inspector

Engineer

Planner

$128/hour (maximum)

$223/hour maximum)

$191/hour

Landscaping security

Letter of credit or cash based on statement of value of landscaping x 125% (held for 1 full year or 2 growing seasons)

Park dedication (residential)

An amount of land equal to 11% of the total gross land area of the plat shall be presumptively defined as “reasonably commensurate”. In the event that the subdivider objects to the 11% standard, the city shall, at the developer’s request and expense, conduct a specific dedication study of the park system and the demand placed on the system by the proposed plat.

Cash-in-lieu: 11% of fair market value of the raw land to be platted at the time of final plat. The city may require an appraisal to determine market value of subject land being platted.

Parking fund (CCD District)

$4,500 per stall

Plat subdivisions:

Preliminary plat

Final plat

$300 + escrow (per chart) $2,000 minimum*

$50 + escrow (per chart)*

Planned Unit Developments (PUDs):

Concept

Development

Final

Adjustment

$50 + $3,500 escrow

$200 + escrow (per chart) ($2,000 minimum)

$50 + escrow (per chart)

$50 + $1,000 escrow

*All escrows reconciled to actual costs for staff/consulting time after decision, whichever is greater

Public ROW or easement vacation

$200 + escrow (per chart)*

Rezoning request (text amendment)

$200

Rezoning (map amendment)

$200 + escrow (per chart)*

Simple subdivision/administrative lot combination/lot line adjustment

$200 + escrow (per chart)*

Text amendment

$200, no escrow

Wetland delineation review

$50 application fee/$500 escrow

Special home occupation permits

$200 + escrow (per chart)*

Special Planning Commission meeting

$350

Temporary use permit (waived for parades only)

$50

Variances:

Commercial/industrial/institutional

$200 + escrow per chart*

Residential, 1 unit

$200 + $1,000 escrow*

Residential, 2 units

$200 + escrow per chart*

*All escrows reconciled to actual costs for staff/consulting time after decision, whichever is greater

NOTE: When multiple land use applications are run concurrently, only one application fee and escrow deposit shall be required per meeting cycle, until escrow is depleted. New escrow required per escrow chart once depleted.

ENGINEERING

Driveway permit

$55

Construction inspection (city or engineer)

$128/hour

GPS locate fee (new subdivisions)

$70/unit

Grading permit:

Existing single-family residential

$75 per permit + $1,500/acre restoration surety bond

New single-family residential development

No drainage calculation review required:

$150 per permit plus restoration surety bond of $3,000/per acre;

$3,000 minimum escrow

Multi-dwelling, commercial and industrial properties

Drainage calculation review required:

$350 per permit plus restoration surety bond of $3,000/first acre;

$1,500 each additional acre

Erosion and sediment control inspection escrow

$300 x weeks of construction - sites disturbing 1 acre or more w/NPDES construction stormwater permit

Land reclamation/mining permit (requires subdivision development agreement or CUP)

Fee determined by City Council resolution + 100% of land restoration costs as determined by City Engineer

Public improvement security

Letter of credit or cash based on statement of construction cost of improvements x 125%

Right-of-way permits

Drops - no drawing required unless origination occurs more than 10 feet from property to be served:

Fee w/out drawings

$30/25 addresses (maximum)

Fee with drawings

$30/5 addresses with drawings (maximum)

Permit extension fee

$20

Pavement hole fee

$55

Trunk line fee

Base fee (first 100 feet)

$45

Trenching (over 100 feet)

$0.10/lineal foot

Boring (over 100 feet)

$0.05/lineal foot

Obstruction fee

$45

Small cell wireless fee

$45

Collocation fees

Escrow - document review

$1,500

Wireless support structure rent

$150/year

Wireless support structure maintenance

$25/year

FIRE DEPARTMENT

Apparatus

Rate per Hour (billed in hour increments)

Engine (up to 4 personnel)

$275

Ladder/aerial (up to 4 personnel)

$275

Water tender (up to 2 personnel)

$200

Command vehicle/utility truck/grass truck (up to 2 personnel)

$85

ATV/UTV with water tank (up to 2 personnel)

$50

Controlled/prescribed burns

Building

$2,500

Prairie or wildland, less than 20 acres

$750/hour

Prairie or wildland, 20 acres or more

$1,000/hour

County-wide response teams

Special response unit

$500

Fire investigation team

$300

Extra personnel

$15/hour

False alarm policy*

- first time

- second time

- third time or more

* Per calendar year

No charge

$250

$350

Fire lock box fee

Cost + 10% + sales tax

Food truck inspections

$50/every other year

LICENSES/PERMITS

Burning permit (to cover expenses, if PW/Fire Dept. are called to burn site)

$250 deposit

Cigarette license

Tobacco licenses are issued by Wright County

Gambling license

Licensed through the state; requires Council approval

Liquor administrative fines:

First violation

Second violation, within 2 years

Third violation, within 2 years

$500

$1,000

$2,000 (no mandatory revocation of license)

Liquor licenses:

1-day consumption and display

$25

3.2 beer, on-sale

$275/year

3.2 beer, off-sale

$100/per year

Brew pub, off-sale

$200/per year

Brewer taproom

$500/per year

Taproom, Sunday sales

$0

Liquor, on-sale

$3,750/per year

On-sale liquor, Sunday sales

$200 (statutory limit)

Liquor, setups

$250/year

Liquor, club (veteran’s org):

Membership

200 or less

$300 (statutory limit)

201 - 500

$500 (statutory limit)

501 - 1,000

$650 (statutory limit)

1,001 - 2,000

$800 (statutory limit)

2,001 - 4,000

$1,000 (statutory limit)

Over 4,000

$2,000 (statutory limit)

Microdistillery

$500/per year

Temporary on-sale (beer)

$10/day

Wine, on-sale

$275/per year

Wine/strong beer comb. on-sale

$1,200/per year

Wine/3.2 beer comb. on-sale

$500/per year

Mobile food unit

Temporary permit

$10

Annual permit

$50

Annual fire inspection

$50 (every other year)

Pawn shop

Annual license, initial

$50

Annual renewal of current license

$25/year

Peddler/solicitor permit:

Peddler merchant/business application

$25

Peddler merchant permit - per person

$25

Background check

$25

Solicitor permit

No fee

Sidewalk café fee

$100

Special event permit

Park special permit fee - alcohol, music, larger events

$50

$25 (For non-profit/charitable organization)

(fee may be waived by Administration for non-profit organizations)

$60

(not utilizing city services)

Therapeutic massage license

Massage enterprise license

$100/per year

Massage therapist license

$50/per year

Massage enterprise/therapist - owner operates as therapist - one fee

$100/per year

Background investigation fee

$25

Transient merchant

Annual permit, private premises

$75/year

Daily fees, operating under annual permit

$10/day (with annual permit)

Daily fees, independent merchant

$50/day

Daily fees, farm/garden fruits and vegetables

No fee from 6/15 to 9/15 (state mandated)

Fireworks sale

$350/year

Traveling shows

$100/first day; $50/day for each day thereafter

MISCELLANEOUS ITEMS

Accounts receivable

Interest charge on misc. accounts receivable

1.5% monthly

Assessment/property search - full

$30

ATV and golf cart permit

$25/3 years

Beekeeping permit

$50/initial application

$25/annual renewal

Comprehensive guide plan - entire

$32 plus tax

Downtown revitalization plan

$15 plus tax

Transportation plan

$50 plus tax

Copies: copy machine

$0.25 per copy + sales tax

Large format copier

$0.50/square foot + sales tax ($2 minimum)

Emailed

$35/hour + sales tax (minimum 1/4 hour)

Electronic media

$10 + cost of media + sales tax

Delinquent certification processing fee:

Minimum account balance of $75

$75 per parcel

Delinquent list

$10 + tax (each)

Deposits on city repair projects

$100 - $300 (depending on est. value of work)

Digital advertising

Ads

Ad change

$800/6 months or $1,500 annually (15 sec/10 to 15 minute interval)

Additional spots $1,000

$3,500/annually - back-to-back slides for 45 seconds

$50

Library room rental

$30 per rental

Notary

$3 each

Signs

Current listed price + 10% handling charge + tax

Non-city initiated proclamations

$50

Utility bill

Utility bill penalty - monthly

Utility - e-bill discount

Utility - ACH payment discount

5% of past due amount, except September penalty 0%

$.50

$1.25

PARKS

Chipping

$75+tax per 1/2 hour for the first 2 hours billed in 1/2 hour increments

$95+tax per 1/2 hour or for the next hour billed in 1/2 hour increments

No more than 3 hours per property

Disease replacement tree

$50 per property

Community garden plot

$30

Memorials:

Bench

Tree

$2,500 (includes tax, delivery, installation)

$600 (includes tax, delivery, installation)

Facility rental fees:

Non-profit

For-profit

Single field reservation

$36 per hour per field

$47 per hour per field

Field lighting

$21 per hour per field

$26 per hour per field

Season rental - 20 game hours

$728 per field

$936 per field

Season rental lighting - 20 game hours

$312 per field

$416 per field

Tournament field rental including lights per day

$130 per field

$156 per field

Soccer/football/lacrosse - non-irrigated

$42 per hour per field

$52 per hour per field

Soccer/football/lacrosse - irrigated

$83 per hour per field

$94 per hour per field

Park rental rates:

Resident

Non-Resident

Ellison Log Shelter

$130 for 6 hours

$160 for 6 hours

Ellison Park Lions Den/Gazebo

$300

$350

Groveland Park Picnic Shelter

$110 for 6 hours

$135 for 6 hours

Otter Creek

$80 for 6 hours

$100 for 6 hours

Pioneer Park

$140 for 6 hours

$160 for 6 hours

West Bridge Park Shelter/Warming House

$160 for 6 hours

$180 for 6 hours

West Bridge Picnic Shelter

$110 for 6 hours

$135 for 6 hours

*Non-Profit Exempt M.-Th., F.-Sun. Res Rate

PUBLIC WORKS

Compost site access fee/replacement fee

$10

Cone replacement

Cost + $10 + sales tax

Labor (no equipment)

$65/hour - regular business hours

$100/hour - outside of regular hours

Sidewalk snow and ice control

$50 per lot - 1st offense

$75 per lot - 2nd offense

$100 per lot - maximum after 2nd offense

$100 mobilization charge per offense at staff discretion

Sweeping

$275/hour - includes operator

Utility excavation permit fee (water, wastewater, stormwater)

(bonding and insurance required)

$130

Recommend removing combination permit in exchange for just using this utility excavation permit

Vac/sewer jet

$465/hour for two operators and machine

Other equipment (including operator):

Backhoe loader

Dump truck

Large front end loaders

Mid size loaders

Motor grader

Pickup or 1-ton truck

Skid steere

$270/hour

$225/hour

$270/hour

$300/hour

$225/hour

$220/hour

$200/hour

SANITARY SEWER

Sewer rates: 1st 1,000 gallons

Over 1,000 gallons

$10.61 minimum

$6.51/1,000 gallons

Sewer rates: special cases

$10 per month x number of people in household

Industrial sewer rates:

All usage

BOD5

TSS

Testing

$4.04/1,000 gallons + sales tax

$0.436/lb + sales tax

$0.599/lb + sales tax

Actual costs + 10%

Sewer and water combination permit

$130 (residential)

$130 plus tax (commercial)

Sewer access charge

Residential - single-family

All others per unit equivalent

$4,555/unit

$4,555/unit

SAC fees in effect at time of building permit application will apply if application has been submitted within 6 months of rate changes.

Trunk sanitary sewer

Residential unit

Non-residential

$1,641/unit

$4,115/acre

Waste water discharge permit:

10,000 to 15,000 GPD

15,001 to 25,000 GPD

25,001 to 50,000 GPD

50,001 to 100,000 GPD

Over 100,000 GPD

$50 annually

$100 annually

$150 annually

$250 annually

$300 annually

STORM SEWER

Trunk storm sewer fees

$4,396 (net acre)

Alternate ponding area - commercial

$9,030 per acre

Alternate ponding area - industrial

$10,554 per acre

Alternate ponding area - residential

$4,505 per acre

STORMWATER UTILITY

Residential (1 drainage unit per residential unit)

$4.50/drainage unit/month (effective 2/1/2023)

Non-residential (7 drainage units per impervious acre - minimum 7)

$4.50/drainage unit/month (effective 2/1/2023)

WASTE ITEMS

Garbage service fees

All residential garbage with cart service:

1st container

2nd container

$10.06/month + solid waste tax effective 2/1/2023

$13/month + solid waste tax

Cart transfer fee

Cost

Garbage cart replacement (if lost or stolen):

38 gallon

60 gallon

90 gallon

Cost + tax + $10

Cost + tax + $10

Cost + tax + $10

Recycle cart replacement (if lost or stolen):

35 gallon

64 gallon

90 gallon

Cost + tax + $10

Cost + tax + $10

Cost + tax + $10

Recycle

Additional cart pickup

$0

Recycling service fee

$5.17 effective 2/1/2023

Storage bins (red, yellow, blue)

$10 includes sales tax (until sold out)

WATER

Cross-connection surcharges per billing period:

Inspection not completed - residential up to four-plex

$150 per unit

Inspection not completed - residential with more than 4 units and non-residential

$600

Correction not made - residential up to four-plex

$150 per unit

Correction not made - residential with more than 4 units and non-residential

$600

Hydrant rates for contractors: (#1, #2, and #3 are all taxable if commercial)

1. All contractors must obtain a permit from the Water Superintendent. The permit fee is $500. This permit will define the hydrant to be used and provides a tally sheet for water usage.

2. The following rates shall apply:

Up to 3,000 gallons:

Over 3,000 gallons:

$40 minimum

$4.25/1,000 gallons

3. The following deposits shall be taken for use of city equipment (no exceptions):

Hydrant wrench

$100

2-1/2 in. fill hose

$150

1-1/2 in. fill hose with 2-1/2 in. adapter

$150

2-1/2 in. hydrant meter

$1,500

5/8" x 3/4 in. and garden hose meter

$250

Nozzle/misc. fitting

$75

*If equipment is returned within 10 days of permit expiration in good condition, the full amount of meter deposit, shall be refunded less water consumption at rates shown above.

Industrial water rate, mtr 1 (effective July 1, 2022)

All usage

$2.47/1,000 gallons + sales tax

Final bill processing fee

$25

Minnesota Department of Health

Water service connection fee

$9.72 per year ($0.81 per month)

Obsolete or refusal of equipment charge (per month charge until MIU is installed)

$50

Delinquent sprinkling meter turn-off

$25

Delinquent sprinkling meter turn-on

$25

Res/Irrigation Water:

first 1,000 gallons

1,001 - 6,500 gallons

6,501 - 11,500 gallons

11,501 - 16,500 gallons

16,501 - 33,000 gallons

over 33,000 gallons

Commercial Water:

first 1,000 gallons

1,001 - 6,500 gallons

6,501 - 33,000 gallons

over 33,000 gallons

Minimum bill no read meter, failure to schedule inspection/repair after 3rd notice

$8.68 minimum

$2.03/1,000 gallons

$2.35/1,000 gallons

$2.58/1,000 gallons

$2.80/1,000 gallons

$3.00/1,000 gallons

$8.68 minimum + sales tax

$2.03/1,000 gallons + sales tax

$2.35/1,000 gallons + sales tax

$2.58/1,000 gallons + sales tax

$150/mo. after 3rd contact attempt until meter is inspected and/or repaired

(If metered separately, no minimum base rate is applied to irrigation meters with zero usage)

Trunk water charge

$1,182/residential unit

$2,954/acre non-residential

Water access charge:

$2,010/equivalent residential unit

WAC total charge is calculated utilitizing the same unit charge per multiplier as per the Metropolitan Council Environmental Services (MCES) Sewer Availability Charge (SAC) Procedure Manual

WAC fees in effect at time of building permit application will apply if application has been submitted within 6-months of rate changes.

Water availability charge (for those who have city water available but choose not to hook up)

$42 (billed in July)

Water meters:

5/8 in. meter

3/4 in. meter

1 in. meter

1-1/2 in. meter

2 in. meter + up

1 in. x 3/4 in. meter valves	$412 + sales tax
1 in. x 1 in. meter valves	$453 + sales tax
	$568 + sales tax
	Cost + $50 + sales tax
	Cost + $50 +sales tax
	$64 + sales tax
	$69 + sales tax
Water meter replacement due to preventable damage	
	Cost + labor (1 hour minimum)
Water shut off, then turned on:	
	$50 ($25 on - $25 off) + delinquency (taxable if non-res.)
Water violations (sprinkling):	
1st violation	No fee
2nd violation	$50
Each subsequent violation	$100/per violation

(Ord. 704, passed 12-10-2018; Ord. 732, passed 12-9-2019; Ord. 738, passed 2-24-2020; Ord. 740, passed 4-27-2020; Ord. 744, passed 7-27-2020; Ord. 766, passed 12-13-2021Ord. 778, passed 5-23-2022; Ord. 787, passed 10-10-2022; Ord. 794, passed 12-12-2022; Ord. 798, passed 2-27-2023)

TITLE V: MUNICIPAL UTILITIES

Chapter

50. WATER AND SEWER

51. STORMWATER UTILITY

52. WASTEWATER DISPOSAL SYSTEM
53. ILLICIT DISCHARGE, DETECTION, AND ELIMINATION
54. GARBAGE, REFUSE, AND RECYCLING

CHAPTER 50: WATER AND SEWER

Section

General Provisions

50.01 Applications, permits, and fees
50.02 Meters
50.03 Private water systems
50.04 Implied consent to rules, regulations, and rates
50.05 Meter readings
50.06 Billing regulations
50.07 Faulty meters
50.08 Leak in service line
50.09 Connection requirements
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50.11 Water meter regulations
50.12 Unlawful to tamper with meter
50.13 Liability for repairs
50.14 Installation of connections
50.15 City not liable
50.16 Stormwater not permitted in sanitary sewer system
50.17 Excavation work and testing of meters
50.18 Emergency regulations
50.19 Right to enter land
50.20 Private water not permitted in system
50.21 Provision for shut off of service
50.22 Cross connection with municipal water utility system; regulations

User Charges

50.35 Purpose

50.36 Computation of user charges

50.37 Billing and enforcement procedures

50.38 Inspection and control

50.99 Penalty

Cross-reference:

Stormwater utility, see Chapter 51

Wastewater disposal system, see Chapter 52

GENERAL PROVISIONS

§ 50.01 APPLICATIONS, PERMITS, AND FEES.

(A) No person shall make any type of connection to the water system, sanitary sewer system, or storm sewer system except upon making an application therefor on a form provided by the city and receiving a permit issued by the city for such purposes. The application shall include the legal description of the property to be served, the uses for which the connection is requested, and the size of the service line to be used.

(B) No connection shall be made with respect to any sanitary sewer, water system, or storm sewer system serving the property of any person or occupants of the land, parcel, or premises affected that have not paid or provided for the payment of the full and proportionate share of the utilities. At the time of taking the application, there shall be paid to the city the following fees for the following purposes.

(1) For service to property to which service lines have not been previously run from the street laterals to the property line, the owner, occupant, or user shall pay an amount not less than the cost of making the necessary connection taps, and installation of pipe and appurtenances to provide service to the property and the necessary street repairs.

(2) For service to property to which service lines have been run to the property line but which have not been paid for, the owner, occupant, or user shall pay in cash or agree to pay charges in the form of special assessments to be levied against the property to be spread over a number of years

coincident with maturity requirements of any special improvement bonds sold for the purpose of financing the construction of sanitary sewer, municipal water, or storm sewer system serving the property. Cash payment or assessment charge shall be in the principal amount of not less than the payments made by or charges placed against comparable properties for like services for the sanitary sewer, water, or storm sewer system in an amount as may be established by the City Council. In the instance of services run to the property lines as provided under division (B)(1) above, the payment of any amount required under this division (B)(2) shall be reduced by the amount paid to the city under division (B)(1) above.

(3) (a) The water connection rate schedule, listed in the fee schedule ordinance, applies to a premises that does not have city water. It also applies where a property had city water and then changes the size of the water connection.

(b) Costs include cost of a water meter and those costs (if service line necessary) in division (B)(1) above.

(c) The hookup charge for water is based upon the following factors:

1. Some means of recovering a portion of water main costs not assessed;

2. Portion of oversizing of water main not assessed should be recovered; and

3. A hookup charge should be based on service line flow capabilities.

(4) (a) Where application is made for connection of any single-family residence to the sanitary sewer system, a connection fee adopted by the City Council for treatment plant plus trunk sanitary sewer shall be paid to the city.

(b) For various commercial, public, and institutional facilities, refer to the most recent version of the Metropolitan Council Environmental Services (MCES) SAC criteria. Use the plumbing code for those items not included in the MCES criteria. The city uses the MCES criteria as the basis for calculating our SAC rates but the city reserves the right to vary from the MCES criteria to accommodate those uses which are deemed to be unique.

(c) Before proceeding with the construction, enlargement, alteration, or repair of any water or sewer lines connecting the water system, sanitary sewer system, or storm sewer system and any house or building, the owner or his or her agent shall first obtain a permit for such purpose from the city. The applicant shall pay to the city as noted in the fee schedule ordinance.

(d) The plumbing inspector shall examine all applications before construction is begun; and after the construction, enlargement, alteration, or repair is complete, the plumbing inspector shall be notified. It shall be unlawful to cover any connecting line until an inspection has been made and the connection and the work incident thereto has been approved by the city as a proper and suitable connection.

(Prior Code, § 7-2-1) (Ord. 32, passed 7-11-1977; Ord. 126, passed 9-13-1983; Ord. 288, passed 3-24-1997; Ord. 538, passed 12-12-2011)

§ 50.02 METERS.

(A) Before any water conveyed through the city water system shall be used or utilized on the land or premises of any person, there shall first be installed a water meter that will accurately measure the water consumed on the premises.

(B) All meters for residential housing and the other connections as may permit the use of the same kind of water meter shall be furnished by the city as set forth above at such time as the water connection change has been paid. In the event special meters are required for commercial or industrial connections, then the applicant shall furnish a meter of the type approved by the city for the connection, and an allowance shall be made toward the cost of the meter in an amount equal to the cost of residential meters.

(C) No connection of water or sewer service shall be made to any house or building unless the plumbing therein has been installed pursuant to the latest Minneapolis Plumbing Code, provided that this shall apply only to construction which has not been completed prior to this chapter.

(Prior Code, § 7-2-2)

§ 50.03 PRIVATE WATER SYSTEMS.

(A) It shall be unlawful for any persons to install private water system or sewer system in the city except in such cases as the public water and sewer system are not accessible to the premises where the private systems are requested. To determine whether or not the public water and/or sewer systems are available for connection, each person desiring to install a private water or sewer system must first make application for connection to a public system. Upon resolution of the City Council determining that it is not feasible to connect the applicant’s premises to the public water or sewer system, then the applicant shall be granted a permit to install a private water and/or sewer system.

(B) Where a private sewer system has been installed before the public sewer system was accessible to the premises served by the private system, connection of the premises to the public system must be made within 30 days after the private system fails to function properly or within three years after public system was accessible, whichever is sooner. It shall be unlawful to repair or pump a private system after such time as the public sewer system is accessible to the premises without written permission of the Water and Sewer Department for the city.

(Prior Code, § 7-2-3) (Ord. 4, passed 11-24-1975) Penalty, see § 50.99

§ 50.04 IMPLIED CONSENT TO RULES, REGULATIONS, AND RATES.

Every person applying for water or sewer service, every owner of property for which any application is made, every person accepting water or sewer services, and every owner of property where service is accepted subsequent to the passage of this chapter shall be deemed upon making the application or accepting the service to consent to all rules, regulations, and rates as established by this chapter and as may hereafter be set forth and adopted by the City Council by resolution or ordinance.

(Prior Code, § 7-2-4)

§ 50.05 METER READINGS.

(A) The City Council may provide a system of water meter reading by any method deemed suitable to the purpose. Water bills shall be payable monthly by the date due specified on the bill. Rates for water used for each month are calculated by using the meter supplying each service.

(B) The city reserves the right to discontinue service to any customer of the water and sanitary sewer system without notice when necessary for repairs, additional connection or reconnection, or for nonpayment of charges of bills, or for disregard of any rules or regulations in connection with the use or operation of the system. Whenever any service has been discontinued for nonpayment of charges or bills or for disregard of any other purpose, it shall not be resumed except upon payment of the charges or bills accrued together with interest thereon as allowed by state statutes, or compliance with the rules and regulations previously violated and payment to the city of a restoration fee established in the city’s fee schedule.

(C) All delinquent accounts that are 60 days or more past due shall be submitted to the City Clerk who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the properties

involved. The assessment roll shall be delivered to the City Council for adoption before October 30 of each year. Upon adoption, the Clerk shall certify the assessment roll to the County Auditor for collection along with taxes.

(Prior Code, § 7-2-5) (Ord. 458, passed 10-23-2006; Ord. 689, passed 12-11-2017)

§ 50.06 BILLING REGULATIONS.

The City Council shall have the authority to prescribe by ordinance the rates to be charged for water and sewer service to the customer from time to time and may prescribe the date of billing, a discount for payment, and/or penalty for failure to pay within the period and such further rules and regulations relative to the use and operation of the system as it may deem necessary from time to time through the fee schedule ordinance.

(Prior Code, § 7-2-6) (Ord. 458, passed 10-23-2006)

§ 50.07 FAULTY METERS.

If a meter fails to register or accurately measure the water, the charge for water consumed shall be paid for at the established rate based upon past average billings as determined by the city. Whenever a consumer believes that a meter is inaccurate the customer can request a new meter be installed. Such request shall be accompanied by a payment equal to the cost of a new meter as listed in the fee schedule ordinance. If any such meter is found to be inaccurate the customer shall be refunded the new meter charge. If the meter shall be found to be accurate in its recordings or calculations the new meter cost shall not be refunded.

(Prior Code, § 7-2-7)

§ 50.08 LEAK IN SERVICE LINE.

Any owner, occupant, or user of a premises who shall discover a leak in a service line to the premises shall notify the city within 24 hours. Any water wasted due to a failure of a person to comply with this regulation shall be estimated by the city and be charged for against the owner at the premises at the established rate.

(Prior Code, § 7-2-8)

§ 50.09 CONNECTION REQUIREMENTS.

Each new building or part thereof constructed in the city which is required by code to have sewer and water shall have its own individual sewer and water connections to the city mains. Any shared existing services for adjacent units of separate ownership which fail and require replacement or substantial repairs shall at that time be separated. Connections shall be made in accordance with standards and specifications approved by City Council.

(Prior Code, § 7-2-9) (Ord. 139, passed 7-23-1984)

§ 50.10 PRIVATE WASTEWATER DISPOSAL.

Where a public sanitary sewer is not available under the provisions of § 50.09, the building sewer shall be connected to a private wastewater disposal system complying with city, state, and federal regulations.

§ 50.11 WATER METER REGULATIONS.

(A) All applications for the installation, maintenance, and repair of water meters shall be made to the city.

(B) No other person other than the city or its designee shall maintain or repair any water meter within the city limits. Every water meter connected to the water system shall be sealed by or under the direction of the city, and no other person shall break or remove the seal, provided, however, that a plumber licensed to do business in the state may break the seal to remove the meter for necessary repairs. In all cases where a seal is broken or a meter is removed by a licensed plumber, the plumber shall notify the city of the fact within 24 hours after the seal is broken or the meter is removed. Whenever any seal attached to a water meter by or under the direction of the city is found broken, the broken condition of the seal shall be prima facie evidence that the seal was broken contrary to the terms and provisions in violation of this chapter.

(C) All water meters connected to the water system shall be accessible to the city at any reasonable hour of any business day, and the refusal of admission of any owner or occupant of any premises wherein a water meter is installed after the owner or occupant has been notified that admission is desired for the purpose of inspecting a water meter installed in the premises shall constitute a violation of this chapter.

(D) The meters shall be repaired from time to time as is necessary to ensure accurate measuring of the flow of water, except that whenever a meter has been damaged due to negligence on the part of persons other

than the employees of the city, the owner, occupant, or user of the premises or other persons desiring the use of the water shall reimburse the city for the expense of repairing any such meter. Upon failure to reimburse the city within a reasonable time and upon demand therefor, the water services and supply to the premises may be shut off or discontinued as determined to be in the best interest of the city.

(Prior Code, § 7-2-10) Penalty, see § 50.99

§ 50.12 UNLAWFUL TO TAMPER WITH METER.

It shall be unlawful for any person to tamper with, alter, bypass, or in any manner whatsoever interfere with the proper use and functioning of water meter within the city.

(Prior Code, § 7-2-11) Penalty, see § 50.99

§ 50.13 LIABILITY FOR REPAIRS.

After the initial connection has been made to the curb stop or the sewer lead, the applicant, owner, or the occupant or user of the premises shall be liable for all repairs required to any water, sanitary, or storm sewer lines necessary for connection of the premises to the street main, including any necessary street repairs.

(Prior Code, § 7-2-12) (Ord. 101, passed 6-8-1981)

§ 50.14 INSTALLATION OF CONNECTIONS.

All connections to the water system and sanitary sewer system shall be performed by a plumber licensed to do plumbing in the city, except that nothing in this chapter shall be construed as to prohibit an individual owner from obtaining a permit and installing the connection by his or her own labor, provided, however, that the construction is conducted under the regulations of this chapter and requirements of the engineer and plumbing inspector.

(Prior Code, § 7-2-13)

§ 50.15 CITY NOT LIABLE.

The city shall not be held liable at any time for any deficiency or failure in the supply of water to the customer caused by shutting off the water for repairs or connections or for any other cause whatever.

(Prior Code, § 7-2-14)

§ 50.16 STORMWATER NOT PERMITTED IN SANITARY SEWER SYSTEM.

(A) It shall be unlawful for any owner, occupant, or user of any premises to direct into or allow any stormwater, surface water, ground water, or water from air conditioning systems to drain into the sanitary sewer system of the city. This includes water from any roof, surface or ground sump pump, foundation drain, or swimming pool. Dwellings and other buildings and structures which require a sump pump system to discharge excess water shall have a permanently-installed discharge line which shall not at any time discharge water into the sanitary sewer system except as provided herein.

(B) A permanent installation shall be one which provides for year-around discharge capability to either the outside of the dwelling, building, or structure, or is connected to the city storm sewer system or discharges to the street. It shall consist of a rigid discharge line without valving or quick connections for altering the path of discharge and include a check valve if connected to the city storm sewer line.

(1) Inspection. Every person owning improved real estate that discharges into the city sanitary sewer system shall allow an employee of the city or their designated representative to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. Properties found to be in compliance will receive a certificate of compliance at the time of inspection.

(2) Non-compliance. Within 30 days of initial inspection, any person, firm, or corporation having a roof, surface or ground sump pump, foundation drain, or swimming pool and/or discharging into the sanitary sewer system shall disconnect and/or remove same. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective and workmanlike manner in accordance with § 50.13. Any person refusing to allow his or her property to be inspected shall immediately become subject to the surcharge hereinafter provided for. Any property found to violate this section shall make the necessary changes to comply with this section within 30 days of the initial inspection.

(3) Future inspections. At any future time, the city may conduct random inspections if the city has reason to suspect that an illegal connection exists on a property to ensure compliance with this section.

(4) New construction. A sump pump and rigid pipe discharge connection to the outside shall be required on all new construction within the city where a ground water drainage system is part of the construction plans.

(5) Temporary winter variance (November 1 through March 1). The City Council shall have the power and duty of hearing and deciding requests for temporary variances from the applicability of the provisions of this section where strict enforcement would cause undue hardship because of circumstances unique to the individual property or cause a safety problem. This does not apply to monetary hardship. Application for a temporary waiver should be addressed in writing to the City of Monticello, Director of Public Works. The applications shall identify the property for which the variance is being applied for, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create undue hardship or concern. Within 30 days after application, the city shall make its order deciding on the matter and serve a copy of the order upon the applicant by mail. Upon receipt of an application for variance, the city will allow the property owner to temporarily discharge directly into the sanitary sewer system. Employees of the city will divert the discharge and seal the connection of the discharge to the sanitary sewer using a meter seal. The cost for the connection to the sanitary sewer and subsequent removal will be noted in the fee schedule ordinance. Additionally, the applicant will be responsible for the cost to transport and treat the added flow to the sanitary sewer at the established city rate. The total flow for the period of the variance will be monitored by the city.

(6) Single-family unit surcharge. A surcharge of $75 per month is hereby imposed and added to every sewer billing to property owners who are not in compliance with this section within 30 days of initial inspection. This surcharge is in addition to any other penalties that may be incurred under this subchapter. Should a single-family unit property owner found to be in compliance with this section and during a subsequent inspection found to have reconnected an illegal source to the sanitary sewer, the surcharge as listed in the fee schedule ordinance will be applied for all months between the previous two inspections.

(7) Non single-family unit surcharge. A surcharge as listed in the fee schedule ordinance is hereby imposed and added to every sewer billing to property owners who are not in compliance with this section within 30 days of initial inspection. This surcharge is in addition to any other penalties that may be incurred under this subchapter. Should a non single-family unit property owner found to be in compliance with this section and during a subsequent inspection found to have reconnected an illegal source to the sanitary sewer, the surcharge as listed in the fee schedule ordinance will be applied for all months between the previous two inspections.

(Prior Code, § 7-2-15) (Ord. 271, passed 6-12-1995) Penalty, see § 50.99

§ 50.17 EXCAVATION WORK AND TESTING OF METERS.

All installation work or repair of connections to the water and sewer systems, including grades, bends, and backfilling, shall be performed under the direction and supervision of the plumbing inspector. No work shall be covered or backfilled until directed by the inspector. All work and excavations shall be protected by barricades and warning markers and lights reasonable and suitable to the purpose. The city shall be held harmless of any claim or loss as might otherwise arise for damage, loss, or injury caused by or arising by reason of the work being performed; and the applicant causing the work to be done shall give undertaking to the city with respect thereto.

(Prior Code, § 7-2-16)

§ 50.18 EMERGENCY REGULATIONS.

The City Council may impose emergency regulations pertaining to the conservation of water by resolution of the Council and by giving notice by publication or by posting in City Hall and at the public places as the Council may direct.

(A) Lawn and garden watering regulations.

(1) Purpose. The city has limited water storage and pumping capacity. Due to the fast growth in residential developments, this section will promote a higher awareness of the primary use of water in the summer lawn and garden irrigation, and regulate the watering of lawns, gardens, grass seed, and sod.

(2) Odd/even schedule. A home or business address ending in an odd number (1, 3, 5, 7, 9) may water its lawn on odd numbered calendar days each month and an address ending in an even number (0, 2, 4, 6, 8) may water its lawn on even-numbered calendar days. The only deviations to the odd/even watering system are apartment complexes and homeowner associations that have been assigned odd or even watering days because of the numerous addresses on one sprinkling system. For these complexes and associations, the address of the bill for sprinkling water shall be used to determine odd or even. The odd/even schedule is in effect from June 1 through September 30 of each year until further notice. This may be deleted or modified when the city completes construction of additional wells and water towers to improve pumping and storage capabilities.

(3) Permit required. A 30-day permit may be obtained at City Hall to water newly seeded or sodded lawns and newly planted trees.

(4) Rain sensors. Rain sensors are required on all commercial, institutional, or governmental sprinkler systems. All newly installed

sprinkling systems from the date of publication of this subchapter, including residential, will be required to have rain sensors.

(5) Private wells. Restrictions of this section do not apply to property serviced by private wells, provided the sprinkling water is pumped from a private well. Residents, commercial, institutional, or governmental entities with private wells are required to notify City Hall that they have a well used for watering purposes.

(B) Additional restrictions. In the case of a severe shortage of water, the City Administrator and/or Public Works Director are authorized to impose additional restrictions to provide for the safe operation of the municipal water supply. The notice shall be posted at all city offices on the city's website, and in the official newspaper. The Mayor and City Council shall be notified of the restrictions as soon as possible.

(Prior Code, § 7-2-17) (Ord. 379, passed 6-10-2002) Penalty, see § 50.99

§ 50.19 RIGHT TO ENTER LAND.

The city, by any authorized employee or agent, shall have the right to enter and be admitted to any lands and property in the city for the purpose of inspection of materials, plumbing work, and fixtures of all kinds used by or in connection with the water and sewer systems, in accordance with § 10.20.

(Prior Code, § 7-2-18)

§ 50.20 PRIVATE WATER NOT PERMITTED IN SYSTEM.

Whenever any premises are connected to the water system, there shall be maintained a complete physical separation between the water supply system and the private water supply system so that it is impossible to intentionally or unintentionally allow any water produced by a private system to be introduced in the supply line from the city system.

(Prior Code, § 7-2-19)

§ 50.21 PROVISION FOR SHUT OFF OF SERVICE.

(A) Shut off for nonpayment. The city shall endeavor to collect delinquent accounts promptly. In any case where satisfactory arrangements for payment have not been made, the Public Works Department may, after the procedural requirements of division (B) below have been complied with, discontinue service to the delinquent customer by shutting off the water at

the stop box. When water service to any premises has been discontinued, service shall not be restored except upon the payment of all delinquent amounts due plus a fee for disconnection and reconnection based on a fee schedule adopted by the City Council.

(B) Procedure. Water shall not be shut off under division (A) above until notice and an opportunity for a hearing have first been given the occupant of the premises involved. The notice shall be sent by certified mail and shall state that if payment is not made before a date stated in the notice but not less than 30 days after the date on which the notice is given, the water supply to the premises will be shut off. The notice shall not be sent until an account is 30 days past due. The notice shall contain amount due and shut off date if payment is not made.

(C) Shut off for abandonment or vacancy.

(1) The Chief Building Official or the Public Works Director, to protect the public health and safety and in order to protect the public water supply and/or private property, may order the city water service immediately disconnected to any property without prior notice to the owner upon determining that any of the following conditions exist:

(a) The property is vacant or abandoned;

(b) The property is unsecured;

(c) The property is determined to be uninhabitable or unsuitable for occupancy;

(d) Other utilities have been shut off or the city has been provided notice of disconnection of gas or electric service; or

(e) Running water to the property creates an unsanitary or unsafe condition.

(2) (a) Water service shall not be re-connected to the property until it has passed an inspection by the city and the owner pays any re-connection fee as noted in the fee schedule ordinance.

(b) Upon disconnection, the city will post or leave notice at the property indicating the date of disconnection and directions regarding how the service may be reconnected.

(Prior Code, § 7-2-20) (Ord. 107, passed 11-23-1981; Ord. 458, passed 10-23-2006)

§ 50.22 CROSS CONNECTION WITH MUNICIPAL WATER UTILITY SYSTEM; REGULATIONS.

All property owners and customers of the municipal water service shall comply with the following cross connection control requirements:

(A) Any private water line, system, apparatus or equipment that is connected to or has a cross-connection with the city's municipal water system shall have a backflow prevention device installed, tested, and properly maintained in accordance with the Minnesota State Plumbing Code.

(B) Prior to the installation of or the repair to any private water line, system, apparatus or equipment that is connected to or has a cross-connection with the city's municipal water system, the property owner, or the customer if different than the owner, shall notify and obtain approval for the installation or repair and the backflow prevention devices proposed to be installed.

(C) The backflow prevention device is to be owned, tested, and maintained in working condition by the customer/owner of the premises being served and shall be done so in accordance with the Minnesota State Plumbing Code.

(D) The backflow prevention device shall be tested at the intervals set forth by the Minnesota State Building Code for the type of device installed. The required test shall be performed by an ASSE/state certified backflow tester. All internal maintenance to the device shall be performed by an ASSE/state certified backflow prevention re builder. The owner/customer shall provide a certified report of the test results to the city. An ASSE certified Cross-Connection Control Surveyor is considered qualified by the City of Monticello to investigate all potable water outlets for actual or potential connections between a potable water supply and sources of contamination or pollution.

(E) (1) All properties connected to the municipal water utility system shall be subject to annual inspections by a city-designated inspector for the purpose of determining whether cross connection(s) exist and if so, whether the proper device is present on the property. The property owner or occupant shall permit the city-designated inspector on the property and within any structure thereon to complete the inspection. The compliance inspection shall occur within 30 days of written notice from the city that a compliance inspection is required on the property. The compliance inspection shall occur at a time and in the manner as reasonably determined by the city inspector.

(2) In lieu of a compliance inspection by the city-designated inspector, the property owner or occupant may have the property inspected, at the sole expense of the owner or occupant, by an ASSE certified Cross-Connection Control Surveyor who shall inspect the property and file a certificate of compliance, on a form provided by the city, within 30 days of

the city's notice of the required inspection. The private ASSE certified Cross-Connection Control Surveyor who conducts the compliance inspection shall certify on the certificate of compliance whether all backflow prevention devices required on the property are installed and in proper working condition in in compliance with the provisions of this section and the Minnesota State Plumbing Code.

(3) If the property owner or occupant fails to permit or have completed a compliance inspection, the city may apply to the district court for an appropriate administrative search warrant authorizing the city to enter the property to conduct the inspection.

(4) In the event that backflow prevention device(s) is required on the property and said device(s) are not present or are not in compliance with this section, the installation or repair of the proper backflow prevention device(s) shall be completed and a second compliance inspection shall be completed within 60 days of the notice of noncompliance to determine if the necessary corrections have been made and compliance with this section has been met. The second compliance inspection shall be subject to the requirements set forth above. Thereafter, the property shall be subject to re-inspections on an annual basis to confirm continued compliance. Properties that are in compliance shall also be subject to re-inspections to confirm continued compliance.

(F) Surcharges.

(1) A surcharge in an amount duly adopted by City Council resolution and set forth in the city's fee schedule shall be assessed against the property on which backflow prevention devices (or lack thereof) in violation of this section. The surcharge will be charged on the property's municipal utility billing statement. A surcharge will be assessed and charged as follows:

(a) An inspection as required herein has not been allowed by the property owner or occupant or a certificate of compliance has not been filed with the city within 30 days after the city's notice of inspection;

(b) The necessary corrections have not been made within the time specified; and

(c) The property owner or occupant has failed to install, replace or repair any and all backflow prevention device(s) at the city's or a court's direction.

(2) A surcharge will be assessed for every billing period during which the property is not in compliance, whether the non-compliance has existed for the entire billing period or a portion thereof.

(G) The city may impose a fee for administering a backflow preventer testing program which shall be as established by City Council resolution.

(H) Failure to comply with the provisions of this section shall be cause to disconnect municipal water service to the property in accordance with this chapter.

(Ord. 743, passed 7-27-2020)

USER CHARGES

§ 50.35 PURPOSE.

For the purpose of providing monies necessary for the maintenance and operation of the disposal system of the city, including payment of principal and interest due or accruing on bonds and other obligations issued or incurred to finance the maintenance and operation, there is hereby charged a “user charge” to be collected by the city with respect to each lot, parcel of land, building, or premises, having any connection direct or indirect with the disposal system of the city or otherwise discharging sewage, industrial waste, water, or other waste directly into the city disposal system. The user charge is to be paid periodically commencing with connection and continuing (unless for good cause waived or excused) for as long as the premises remain connected.

(Prior Code, § 7-3-1)

§ 50.36 COMPUTATION OF USER CHARGES.

The city shall have the discretion to establish user classification. Each user class shall be billed by rates contained in the fee schedule ordinance.

§ 50.37 BILLING AND ENFORCEMENT PROCEDURES.

(A) Accounts. All accounts shall be carried in the name of the owner who personally, or by his or her authorized agent, applied for such service. The owner shall be liable for water and sewer services supplied to the property, whether he or she is occupying the property or not, and any unpaid charges shall be a lien upon the property.

(B) Charges due. The Chief Financial Officer shall compute the amount due the city for service charges and render a statement thereof monthly to

the owner of any premises served or to both. All amounts due hereunder shall be payable to the office of the Finance Department.

(C) Payment required. Payment of user charges must be made when a connection is established, temporary or permanent, vacancy notwithstanding

(D) Enforcement of charges. Each charge levied by and pursuant to this section is hereby made a lien upon the corresponding lot, land, or premises served by a connection to the sewer system of the city. All the charges which are more than 60 days past due, and having been properly billed to the occupant of the premises served, shall be certified by the City Clerk to the County Auditor by November 30 of each year. The City Clerk shall specify the amount thereof, the description of the premises served, the name of the owner thereof which shall be certified by the Auditor on the tax rolls against the premises in the same manner as other taxes.

(E) Right of action. Any charges levied by and pursuant to § 50.36, and which have not been properly billed to the owner of any premises served, and not paid, may be recovered in a civil action by the city in any court of competent jurisdiction.

(F) Application of funds. The funds received from the collection of charges authorized by this section shall be deposited as collected in a fund known as the Water Fund and Sewer Fund and shall be disbursed:

(1) To meet the costs of operation and maintaining the water and sewage disposal pumping stations, treatment plant, and collection system; and

(2) To meet the costs of repair and replacement of the water and sewage disposal facilities.

(Prior Code, § 7-3-3) (Ord. 214, passed 10-28-1991; Ord. 785, passed 9-26-2022)

§ 50.38 INSPECTION AND CONTROL.

(A) Industrial waste measurement and sampling. Any person discharging industrial waste into the disposal system shall provide and maintain a suitable point or points of access together with the necessary meters and other appurtenances at an appropriate location prior to discharge of the waste into the disposal system to permit observation, measurement, and sampling of the waste by the city. Plans for the sampling points and measuring equipment shall be submitted to and approved by the city prior to construction and installation of same. Sampling and measuring facilities shall be such as to provide safe access for making inspection and

verification of their proper operating condition. The metered water supply to a source of industrial waste may be used in lieu of a measured industrial waste volume where it can be established that the metered water supply and waste quantities are approximately the same or where a measurable adjustment to the metered supply can be made to determine the waste volume.

(B) Industrial waste analyses. Determination of the character and concentration of an industrial waste discharged into the disposal system shall be made by the person discharging it or his or her designated agent. Reports showing quantities and pertinent analytical data of the industrial waste discharges shall be filed with the city.

(C) Measurement and test procedures. All measurements, tests, and analyses of the characteristics of waste to which reference is made in these rules and regulations shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation. Sampling shall be carried out by methods acceptable to and approved by the city. Alternate methods for certain analyses may be used subject to prior written approval by the city.

(D) Confidentiality of critical information.

(1) Any records or other information obtained by the city or furnished by an industrial waste discharger which are certified by the discharger to relate to:

(a) Production or sales figures;

(b) Processes or production unique to the discharge; or

(c) Information which would tend to affect adversely the competitive position of the discharger shall be only for the confidential use of the city in discharging its statutory obligations unless otherwise authorized by the discharger.

(2) However, all the information may be used by the city in compiling or publishing analyses or summaries relating to the general condition of the public waters so long as the analyses or summaries do not identify any discharger who has so not certified.

(Prior Code, § 7-3-4)

§ 50.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of §§ 50.01 through 50.21 is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 7-2-21)

(C) Violators of § 50.17 will be warned the first time and a water use surcharge as listed in the fee schedule ordinance will be billed for a second offense; the surcharge for third and subsequent violations within a 12-month period is listed in the fee schedule ordinance. The Public Works Department may shut the water off for repeat offenses. The standard turn-off and turn-on rates shall apply in addition to the surcharges.

(Prior Code, § 7-2-17)

(Ord. 362, passed 7-23-2001)

CHAPTER 51: STORMWATER UTILITY

Section

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51.04 Stormwater Utility Fund

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51.99 Penalty

§ 51.01 STORMWATER UTILITY ESTABLISHMENT.

There is hereby established a public utility to be known as the stormwater utility for the city. The stormwater utility shall be operated as a public utility pursuant to the authority of M.S. § 444.075, as it may be amended from time to time. Stormwater utility revenues shall be subject to the provisions of this section and M.S. § 444.075, as it may be amended from time to time.

(Ord. 718, passed 4-8-2019)

§ 51.02 PURPOSE.

The purpose of this chapter is to provide a funding mechanism for the following services:

(A) The administration, planning, analysis, installation, operation, maintenance, and replacement of public drainage systems;

(B) The administration, planning, implementation, construction, and maintenance of stormwater best management practices (BMPs) to reduce the introduction of sediment and other pollutants into local water resources;

(C) Other education, engineering, inspection, monitoring, testing, and enforcement activities as necessary to maintain compliance with local, state, and federal stormwater requirements; and

(D) Activities necessary to maintain compliance with the national pollutant discharge elimination system (NPDES), municipal separate storm sewer system (MS4) permit requirements established by the U.S. Environmental Protection Agency, including preparation, implementation, and management of a stormwater pollution prevention plan (SWPPP).

(Ord. 718, passed 4-8-2019)

§ 51.03 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

IMPERVIOUS. A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads. Paths, parking, and storage areas that consist of gravel and exposed dirt will be considered an IMPERVIOUS SURFACE.

(Ord. 718, passed 4-8-2019)

§ 51.04 STORMWATER UTILITY FUND.

There is hereby created a Stormwater Utility Fund into which all fees, when collected, shall be placed. Such monies shall be first used to pay normal, reasonable, and current costs of operating and maintaining the city stormwater system and facilities.

(Ord. 718, passed 4-8-2019)

§ 51.05 ESTABLISHMENT OF STORMWATER UTILITY FEE.

There shall be collected from every property in the city a stormwater utility fee. Stormwater utility fees shall be established by ordinance. Fees shall be based upon the operations of the stormwater utility, including an accounting of all monies received and disbursed, together with a working budget estimate of the needs of the utility.

(Ord. 718, passed 4-8-2019)

§ 51.06 RESIDENTIAL.

The stormwater utility fee for properties classified as residential shall be calculated based on one drainage unit per residential unit. Residential properties include single-family, multi-family, townhome, mobile home park, and all other types of clustered residential housing, including the residential portion of mixed-use developments and excluding lodging.

(Ord. 718, passed 4-8-2019)

§ 51.07 NON-RESIDENTIAL.

The stormwater utility fee for properties classified as non-residential shall be calculated based on seven drainage units per impervious acre. Every non-residential property shall have a minimum of at least seven drainage units. Impervious acreage will be rounded to the nearest full acre (e.g., one and one- half impervious acres are rounded to two acres).

(Ord. 718, passed 4-8-2019)

§ 51.08 STORMWATER UTILITY FEE EXEMPTIONS.

The following land uses are exempt from stormwater utility fees:

(A) Public rights-of-way and parks;

(B) Vacant lands with no impervious surface; and

(C) Railroad rights-of-way.

(Ord. 718, passed 4-8-2019)

§ 51.09 STORMWATER UTILITY ADJUSTMENTS.

The Public Works Director, or designee, may adjust the impervious surface acreage for non-residential parcels of land based on a demonstration that the impervious coverage of such parcel is substantially different than the amount previously calculated. Supporting information, including maps and measurements to justify an adjustment, shall be supplied by the property owner. Administrative adjustments for impervious surface calculation differences shall be retroactive to the month said deviation is brought to the attention of the city.

(Ord. 718, passed 4-8-2019)

§ 51.10 APPEAL OF STORMWATER UTILITY FEE.

If a property owner or person responsible for paying a stormwater utility fee believes that a particular assigned fee is incorrect, such person may request a recalculation. The City Council shall review and approve recalculations following any appeal and its decision shall be final.

(Ord. 718, passed 4-8-2019)

§ 51.11 PAYMENT OF FEES.

Statements for stormwater utility fees shall be billed on the same basis (e.g., monthly, quarterly, and the like) as other utility charges. All fees shall be subject to established procedures for determining and collecting customer charges. Mobile home parks shall be billed in aggregate to the owner of the mobile home park. For other clustered residential units such as townhomes, the city has the discretion to bill either a homeowner association in aggregate or each homeowner. Both residential and non-residential fees shall be applied to mixed-use developments, with charges billed individually or in aggregate, to either tenant or property owner, at the discretion of the city. Monthly charges apply to temporarily vacated property. The charge is for service rendered in the month of the bill.

(Ord. 718, passed 4-8-2019)

§ 51.12 ESTABLISHMENT OF TAX LIEN.

Any past due stormwater utility fees will be certified to the County Auditor for collection with real estate taxes against the property served by the utility established in this chapter for collection as other taxes are collected in the following year pursuant to M.S. § 444.075 subd. 3, as it may be amended from time to time, and the city code of ordinances. In addition, the city may have the right to bring a civil action or take other legal remedies to collect unpaid fees.

(Ord. 718, passed 4-8-2019)

§ 51.99 PENALTY.

All stormwater fees not paid by the due date shall incur a penalty at the same rate set forth for other delinquent utility fees in the fee schedule ordinance.

(Ord. 718, passed 4-8-2019)

CHAPTER 52: WASTEWATER DISPOSAL SYSTEM

Section

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GENERAL PROVISIONS

§ 52.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for discharges into the city’s wastewater disposal system.

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the wastewater disposal system which will interfere with the operation of the system or the use or disposal of the sludge;

(2) To prevent the introduction of pollutants into the wastewater disposal system which will pass through the system inadequately treated into receiving waters or the atmosphere or otherwise be incompatible with the system; and

(3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

(C) This chapter provides for the regulation of discharges into the city's wastewater disposal system through the issuance of permits to certain users and through enforcement of the general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of cost resulting from the program established herein.

(D) This chapter shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city wastewater disposal system. This chapter is a supplement to Chapters 50, 51, and 53 of this code of ordinances. Except as otherwise provided herein, the Public Works Director of the city wastewater disposal system shall administer, implement, and enforce the provisions of this chapter.

(Prior Code, § 14-1-1)

§ 52.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms not otherwise defined herein shall be as given in M.S. Ch. 115 and M.S. Ch. 116, as they may be amended from time to time.

ACT. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. §§ 1251 et seq.

BIOCHEMICAL OXYGEN DEMAND (BOD5). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C expressed in terms of weight and concentration (milligrams per liter (mg/l)).

CITY. The City of Monticello or the City Council of Monticello.

COMMERCIAL USER. A person engaged in a trade or business and who discharges only domestic sanitary waste in amounts less than 25,000 gallons per day or having less than 43 pounds BOD5 or 50 pound suspended

solids per day. A commercial user shall be exempt from permit filing and associated fees. Any person discharging more than state waste quantities shall be considered an industrial user for the purposes of this chapter.

DIRECTOR; SUPERINTENDENT. The Director of the Public Works Department of the city. The SUPERINTENDENT of the wastewater disposal system shall have the same authority in the absence of the DIRECTOR.

IMMINENT OR SUBSTANTIAL ENDANGERMENT. A condition occurring that is an immediate danger caused by a discharge to the sewer system that is one or more of the following:

(1) A toxic discharge that would cause disruption of treatment process or prohibit or substantially limit sludge application or disposal;

(2) A flammable discharge that is of sufficient quantity to, alone or in combination with other gases or substances, create an explosive condition;

(3) A discharge that, either alone or in combination with other normally present substances, would cause toxic vapors or fumes to be created;

(4) A discharge of solid or viscous materials that would cause an immediate plugging problem in sewer or pumping mechanisms;

(5) Any radioactive wastes as defined by the NRC, AEC, and/or other state and federal agencies; and/or

(6) Any liquid slug load greater than 25,000 gallons discharged in one hour or less.

INDUSTRIAL USER. A person who discharges to the city’s wastewater disposal system liquid wastes resulting from the processes employed in industrial, manufacturing, or from the development of any natural resource.

INTERFERENCE. The inhibition or disruption of the city’s wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the city’s NPDES or state disposal system permit. The term includes prevention of sewage sludge use or disposal by the city in accordance with local, state, and federal rules or regulations.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. Any permit or requirements issued by the Minnesota Pollution Control Agency (MPCA) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 et seq.) for the purpose of regulating the discharge of sewage, industrial wastes, or other wastes under the authority of § 402 of the Act, being 33 U.S.C. § 1342.

NON-CONTACT COOLING WATER. The water discharged from any use such as air conditioning, cooling, or refrigeration, or during which the only pollutant added to the water is heat.

PERMIT. The wastewater discharge permit issued by the city to industrial users.

PERSON. Any corporation, individual, partnership, association, public agency, and any other organization or group of individuals, public or private.

pH. The logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

PRETREATMENT. The process of reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing the pollutants into the city's wastewater disposal system. The reduction, elimination, or alteration may be obtained by physical, chemical, or biological processes, process changes, or other means, except by dilution as prohibited by § 52.019.

SHALL. Is mandatory; MAY is permissive.

SIGNIFICANT INDUSTRIAL USER. Any industrial user of the city's wastewater disposal system which:

(1) Has a discharge flow of 25,000 gallons or more per average work day;

(2) Has a flow greater than 5% of the flow in the city's wastewater disposal system; or

(3) Has BOD or suspended solids loading equivalent to domestic strength sewage at the flow defined in divisions (1) or (2) above;

(4) Has in its wastes at the point of discharge toxic pollutants (as defined pursuant to § 307 of the Act, being 33 U.S.C. § 1317, or state statutes and rules) in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the wastewater system; or

(5) Has a significant impact, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

STATE. The State of Minnesota.

STATE DISPOSAL SYSTEM PERMIT. Any permit (including any terms, conditions, and requirements thereof) issued by the MPCA pursuant to M.S. § 115.07, as it may be amended from time to time, for a disposal system as defined by M.S. § 115.01, subd. 5, as it may be amended from time to time.

STORMWATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquids, and which is removable by a standard glass fiber filter.

USER. Any person who discharges, causes, or permits the discharge of wastewater into the city's wastewater disposal system.

WASTEWATER. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any ground water, surface water, and stormwater that may be present, whether treated or untreated, which is discharged into or permitted to enter the city's wastewater disposal system.

WASTEWATER DISPOSAL SYSTEM or SYSTEM. Any devices, facilities, structures, equipment, or works owned or used by the city for the purpose of the transmission, storage, treatment, recycling, and reclamation of industrial and domestic wastewater or necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection system, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works, including land, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment. The SYSTEM shall be designed, operated, and maintained in accordance with acceptable engineering standards.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Prior Code, § 14-1-2) (Ord. 132, passed 1-23-1984)

REGULATION OF DISCHARGES

§ 52.015 GENERAL DISCHARGE PROHIBITIONS.

(A) No user shall discharge or cause to be discharged, directly or indirectly, into the wastewater disposal system any substance which exceeds or any other way violates the prescribed design limitations of the system.

(B) (1) In addition to compliance with these limitations, no user shall discharge to any public sewer any discharge which causes interference as defined with the wastewater disposal system.

(2) Pollutants in the effluent from an industrial user shall not be considered to cause interference where the industrial user is in compliance with specific limitations or standards developed by federal, state, or local governments.

(3) Where the industrial user is in compliance with the specific limitations or standards and pollutants in the effluent from the industrial user's facility nevertheless are determined to have caused or significantly contributed to a violation of any requirement of the city's NPDES or state disposal system permit and are likely to cause such a violation in the future, the city must take appropriate action to develop and enforce specific effluent limits for that industrial user to ensure renewed and continued compliance with the city's NPDES or state disposal system permit.

(Prior Code, § 14-2-1)

§ 52.016 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

(A) National categorical pretreatment standards promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all users which are subject to such standards in any instance where they are more stringent than the limitations in this chapter unless the Director has applied for and obtained from the MPCA approval to modify the specific limits in the national categorical pretreatment standards will be considered for submittal by the Director when the city's wastewater treatment system achieves consistent removal of the pollutants. CONSISTENT REMOVAL shall be defined as in 40 C.F.R. part 403 of the General Pretreatment Regulations for Existing and New Sources of Pollution.

(B) Conditional revisions of national categorical pretreatment standards may be made by the city in accordance with 40 C.F.R. part 403 if requested by the industry, in accordance with 40 C.F.R. part 403.

(Prior Code, § 14-2-2) (Ord. 132, passed 1-23-1984)

§ 52.017 STATE AND LOCAL REQUIREMENTS.

State requirements and limitations on discharges shall be met by all users which are subject to the standards in any instance in which they are more stringent then federal requirements and limitations or those in this chapter or any other applicable ordinance.

(Prior Code, § 14-2-3)

§ 52.018 PRETREATMENT FACILITIES.

Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater shall be provided, operated, and maintained at the user's expense. Plans showing the pretreatment facilities and operating procedures shall be included as part of the permit application. The review of the plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the Director prior to the user's initiation of the changes and shall be in compliance with the existing permit, the terms of this chapter, and all other applicable regulations.

(Prior Code, § 14-2-4)

§ 52.019 DILUTION.

No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained herein, contained in the national categorical pretreatment standards, or contained in any state requirements.

(Prior Code, § 14-2-5)

§ 52.020 ACCIDENTAL AND SLUG DISCHARGES.

(A) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Plans showing facilities and operating procedures to provide this protection shall be submitted as part of the application. Review and

approval of the plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter.

(B) Users shall notify the Director immediately upon having a slug or accidental discharge of substances or wastewater in violation of this chapter in order to enable counter measures to be taken by the Director to minimize damage to the wastewater disposal system and receiving waters. The notification will not relieve users of liability for any expense, loss, or damage to the wastewater disposal system or treatment process, or for any fines imposed on the city on account thereof under any state or federal law. A notice shall be permanently posted in the user's bulletin board or other prominent place advising employees whom to call in the event of a slug or accidental discharge. Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency notification procedure.

(Prior Code, § 14-2-6)

§ 52.021 SLUDGES GENERATED.

Sludges, screenings, skimmings, and the like, generated by an industrial or commercial pretreatment system shall not be placed into the city's wastewater disposal system. The materials shall be contained, transported, and disposed of in accordance with all federal, state, and local regulations.

(Prior Code, § 14-2-7)

CHARGES AND FEES

§ 52.035 PURPOSE.

It is the purpose of this chapter to provide for the recovery of costs from users of the city's wastewater disposal system for the implementation of the program established in this chapter. The applicable charges or fees shall be set forth in the city's schedule of charges and fees to be prepared from time to time by the Director and approved by the City Council.

(Prior Code, § 14-3-1)

§ 52.036 MONITORING.

All cost to the city associated with problem related non-scheduled monitoring, including equipment rental or use, sample gathering, and laboratory costs, shall be billed to the violating user according to the provisions of § 52.999(B).

(Prior Code, § 14-3-2)

§ 52.037 INSPECTION.

Routine inspection and surveillance costs shall be paid through the permit fees.

(Prior Code, § 14-3-3)

§ 52.038 PERMIT.

The wastewater discharge permit fees shall be proportional to as listed in the fee schedule ordinance.

(Prior Code, § 14-3-4)

ADMINISTRATION

§ 52.050 GENERAL USER REPORTS.

The Director may require that any person discharging or proposing to discharge wastewater to the wastewater disposal system file a quarterly discharge report. The discharge report may include, but not be limited to, nature of process, rates of flow, mass discharge rate, raw material and production quantities, hours of operation, number and classification of employees, compliance status with any state or federal pretreatment standards, or other information which relates to the generation of waste, including wastewater constituents and concentrations in the wastewater discharge. The reports may also include sludge disposal practices and the chemical constituents and quantity of liquid or gaseous materials stored on site, even though they may not normally be discharged. At a minimum, a summary of the data indicating each industrial user’s compliance with this chapter shall be prepared annually and submitted to the Director. In addition to discharge reports, the Director may require information in the form of self-monitoring reports and compliance schedules.

(Prior Code, § 14-4-1)

§ 52.051 WASTEWATER DISCHARGE PERMITS.

(A) Mandatory permits. All industries proposing to connect or to commence a new discharge to the wastewater disposal system shall obtain a wastewater discharge permit before connecting to or discharging into the wastewater disposal system if the discharge would result in the industry being classified as a significant industrial user. All existing significant industrial users or industrial users subject to national categorical pretreatment standards under § 307(b) and (c) of the Act connected to or discharging into the wastewater disposal system shall obtain a wastewater discharge permit within 180 days after the effective date of this chapter.

(B) Permit application. Users required to obtain a wastewater discharge permit shall complete and file with the Director an application in the form prescribed by the Director and accompanied by a fee as provided in §§ 52.035 through 52.038. Existing users shall apply for a wastewater discharge permit within 90 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting or discharging to the wastewater disposal system. The Director will evaluate the data furnished by the user and may require additional information. Within 45 days of receipt of a completed application form and after evaluation and acceptance of the data furnished, the Director may issue a wastewater discharge permit subject to terms and conditions provided herein.

(C) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the city. Permits shall contain the following (where applicable):

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the wastewater disposal system;

(2) Limits on the average and maximum waste constituents and characteristics;

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(4) Requirements for installation and maintenance of inspection and sampling facilities for each point of discharge;

(5) Requirements for installation, operation, and maintenance of pretreatment facilities;

(6) Specifications for in-plant monitoring programs which may include sampling locations, frequency and method of sampling, number, types, and standards for tests and reporting schedule;

(7) Compliance schedules;

(8) Requirements for submission of technical reports or discharge reports;

(9) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Director, but in no case less than three years, and affording Director access thereto;

(10) Requirements for notification to and acceptance by the Director of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(11) Requirements for notification of slug or accidental discharges as provided in § 52.020 and reporting permit violations;

(12) Requirements for disposal of sludges, screenings, skimmings, and the like; and

(13) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(D) Permit duration. Permits shall be recertified annually upon submission of the annual fee as specified in § 52.038. The terms and conditions of the permit may be subject to modification by the Director during the term of the permit as limitations or requirements as identified in §§ 52.015 through 52.021 are modified or other just cause exists. The user shall be informed of any proposed changes in his or her permit at least 45 days prior to the effective date of change. Any changes or new conditions in the permit shall include a schedule for compliance of not less than 180 days.

(E) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to the standard shall be revised to require compliance with the standard within the time frame prescribed by the standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit, the user shall apply for a permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the Director within 180 days after the promulgation of an applicable national categorical pretreatment standard a statement indicating whether or not the pretreatment standards are being met, and if not, whether additional pretreatment and/or operation and maintenance is required, a schedule shall be submitted which shall comply with applicable categorical pretreatment standard. If the information previously submitted in an application is still current and adequate, only a letter from the user certifying such shall be required.

(F) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit may be reassigned, transferred, or sold to a new owner or a new user provided that any succeeding owner or user shall also comply with the terms and conditions of the existing permit, and further provided that the Director receives notification on a form prescribed and provided by the Director of the reassignment, transfer, or sale.

(Prior Code, § 14-4-2)

§ 52.052 MONITORING FACILITIES.

(A) Monitoring facilities for each discharge point to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems shall be provided and operated by all industrial users. The monitoring facility should normally be situated on the user's premises, but the Director may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

(B) There shall be ample room in or near the sampling manhole or facility to allow accurate sampling and compositing of samples for analysis. The facility and sampling measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Director's requirements (as per the discharge permit) and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Director unless a time extension is otherwise granted by the Director.

(Prior Code, § 14-4-3)

§ 52.053 INSPECTION, SAMPLING, AND RECORDS.

(A) The Director shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with, in accordance with § 10.20. Persons or occupants or premises where wastewater is created or discharged shall allow the Director ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, or in the performance of any of their duties. The Director, MPCA, and EPA shall have the right to set up on the user's property such devices as are necessary to

conduct samplings, inspection, compliance monitoring, and/or metering operations.

(B) Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with any security guards so that upon presentation of suitable identification, the Director, MPCA, and EPA will be permitted to enter without delay for the purposes of performing their specific responsibilities relative to the provisions of this and other applicable ordinances.

(C) Wastewater discharge records shall be kept by the user for a period of at least three years. The records shall include information required in § 52.001 and any requirements of federal regulations.

(1) All records relating to compliance with pretreatment standards shall be made available by the Director to officials of the EPA or MPCA upon request.

(2) Any user subject to a national categorical pretreatment standard, after the compliance date of the pretreatment standard, or in the case of the commencement of a new discharge to the wastewater disposal system, shall submit to the Director during the months of June and December, unless required more frequently in the pretreatment standard or by the Director, a report indicating the nature and concentration of pollutants in the effluent which are limited by the pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in §§ 52.050 or 52.051(B). The Director may agree to alter the months during which the above reports are to be submitted.

(Prior Code, § 14-4-4)

§ 52.054 COMPLIANCE REPORTING REQUIREMENTS.

Within 90 days following the date for final compliance with applicable pretreatment standards or in the case of the commencement of a new discharge to the wastewater disposal system, any user subject to pretreatment standards and requirements shall submit to the Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user’s facility which are limited by pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the facility into compliance with the applicable

pretreatment standards or requirements. This statement shall be signed by the user and certified to by a qualified professional.

(Prior Code, § 14-4-6)

§ 52.055 CONFIDENTIAL INFORMATION.

(A) Information and data on a user obtained from applications, permits, monitoring programs, and inspections shall be available to the public or other government agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Director that the release of the information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

(B) When requested by the person furnishing a report, and until the time as the information is determined not to be confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the NPDES permit, state disposal system permit, and/or the pretreatment programs, provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the Director as confidential shall not be transmitted to any governmental agency or to the general public by the Director until and unless a ten-day notification is given to the industrial user.

(Prior Code, § 14-4-7)

ENFORCEMENT

§ 52.070 SLUG OR ACCIDENTAL DISCHARGE.

(A) The Director may suspend the wastewater treatment service of a user and/or a wastewater discharge permit after formal written notice to the discharger when the suspension is necessary, in the opinion of the Director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or to the wastewater disposal system, or would cause the city to violate any condition of its NPDES or state disposal system permit.

(B) Any user notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the Director shall take the steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the wastewater disposal system or endangerment to any individuals. The Director shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the slug or accidental discharge and the measures taken to prevent any future occurrence shall be submitted to the Director within 15 days of the date of occurrence.

(Prior Code, § 14-5-1)

§ 52.071 REVOCATION OF PERMIT.

In accordance with the procedures of §§ 52.070 through 52.075, the Director may revoke the permit of any user which fails to factually report the wastewater constituents and characteristics of his or her discharge, which fails to report significant changes in wastewater constituents or characteristics, which refuses reasonable access to the user’s premises for the purpose of inspection or monitoring or for violation of conditions of its permit, this chapter, or applicable state and federal regulations.

(Prior Code, § 14-5-2)

§ 52.072 NOTIFICATION OF VIOLATION.

Whenever the Director finds that any person has violated or is violating this chapter, wastewater discharge permit, or any prohibition, limitation, or requirement contained herein, the Director may serve upon the person a written notice stating the nature of the violation. Within 30 days of the date of the notice, unless a shorter time frame is necessary due to the nature of the violation, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(Prior Code, § 14-5-3)

§ 52.073 SHOW CAUSE HEARING.

(A) Notice of hearing. If the violation is not corrected by timely compliance, the Director may order any user which causes or allows an unauthorized discharge to show cause in a hearing before the City Council

why the proposed enforcement action should not be taken. A notice of the hearing shall include proposed enforcement action and shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation or one of the persons whose name appears on the permit application.

(B) Hearing officials. The City Council may itself conduct the hearing and take the evidence or may designate any of its members or any officer or employee of the Public Works Department to:

(1) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the protection of evidence relevant to any matter involved in the hearings;

(2) Take the evidence; and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

(C) Transcripts. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

(D) Issuance of orders. After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances shall have been installed or existing treatment facilities, devices, or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Prior Code, § 14-5-4)

§ 52.074 LEGAL ACTION.

If any person discharges sewage, industrial waste, or other wastes into the city’s wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the City Attorney may, following the authorization of the action by the City Council, commence an action for appropriate legal and/or equitable relief.

(Prior Code, § 14-5-5)

§ 52.075 APPEAL TO THE CITY COUNCIL.

(A) Any interested party shall have the right to request in writing an interpretation or ruling on any matter covered by this chapter and shall be entitled to a written reply from the city/City Attorney.

(B) Any decision of the Director in the enforcement of this chapter maybe appealed to the City Council by filing a written petition with the City Clerk within 30 days of the Director's ruling. The petition shall specify in detail the matter or matters involved and every ground or basis on which objections are made. The petition shall show the names, addresses, and telephone numbers of all objectors and their attorney at law or representative. The filing of a petition in accordance with the requirements herein shall stay all proceedings unless the Director shall file within 72 hours after the filing of a petition a certificate stating that a stay would cause peril to life or property or specifying other good reason.

(C) The City Council shall fix a reasonable time for hearing of the petition or appeal and give due notice of the time and place of the hearing to parties named in the petition as attorney or spokesperson. The hearing shall be open to the public. Petitioners shall be given full opportunity to present evidence in support of their petition after which the Director may present evidence in support of his or her decision.

(D) The City Council shall decide the appeal within a reasonable time and notify the attorney or representative. The minutes of the Council shall constitute the official record of the petition, hearing, and decision. Any party desiring a transcript of the proceedings shall furnish a qualified court reporter at its own expense.

(Prior Code, § 14-5-6)

§ 52.999 PENALTY.

(A) Civil penalties. Any user who is found to have violated an order of the City Council or who has failed to comply with any provision of this chapter and the orders, rules, regulations, and permits issued hereunder shall be fined a fee listed in the fee schedule ordinance. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees, and other expenses of litigation by an appropriate action against the person found to have violated this chapter or the order, rules, regulations, and permits issued hereunder.

(Prior Code, § 14-6-1)

(B) Costs of damage. In addition to the civil penalties provided for in division (A) above, any user violating any of the provisions of this chapter or who has a discharge which causes a deposit, obstruction, damage, or other impairment to the city's wastewater disposal system shall become liable to the city for any expense, loss, or damage caused by the violation or discharge. The Director may add to the user's charges and fees the costs assessed for any cleaning, repair, monitoring at user's location, or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this chapter.

(Prior Code, § 14-6-2)

(C) Criminal penalties.

(1) Any person who willfully or negligently violates any provision of this chapter or any provision of a permit issued by the city thereunder shall be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by law.

(2) Any person who continues any violation of any provision of this chapter or any provision of a permit issued by the city thereunder beyond the time limit provided for in the Director's written notice of violation shall be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(3) Each day in which a violation referred to in either divisions (D)(1) or (D)(2) above continues shall be deemed a separate offense.

(4) Any person who knowingly makes any false statement or representation in any record, report, plan, or document filed with the city, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required under this chapter or any permit issued by the city thereunder shall be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 14-6-4)

(Ord. 132, passed 1-23-1984; Ord. 274, passed 8-14-1995; Ord. 358, passed 1-8-2001)

CHAPTER 53: ILLICIT DISCHARGE, DETECTION, AND ELIMINATION

Section

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§ 53.01 STATUTORY AUTHORIZATION; PURPOSE AND INTENT.

(A) The purpose of this chapter is provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(B) The objectives of this chapter are:

(1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;

(2) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and

(3) To establish legal authority to carry out all inspection, surveillance, enforcement, and monitoring procedures necessary to ensure compliance with this chapter.

(C) This section is adopted pursuant to the authorization and policies contained in M.S. Ch. 103B and M.S. Ch. 462, as they may be amended from time to time; Minn. Rules parts 6120.2500 to 6120.3900; Minn. Rules Ch. 8410, 8420, and 70510.0210.

(Prior Code, § 7-10-1) (Ord. 606, passed 12-8-2014)

§ 53.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCIDENTAL DISCHARGE. A discharge prohibited by this chapter and without planning or thought prior to occurrence.

AUTHORIZED ENFORCEMENT AGENCY. Employees or designees of the city designated to enforce this chapter.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to the NDPES construction permits. Currently, these include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT CONNECTIONS. An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge including sewage, process wastewater, and wash water to enter the storm drain system, including any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in § 53.07.

INDUSTRIAL ACTIVITY. Activities subject to NDPES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A stormwater conveyance or unified stormwater conveyance system, including, without limitation, roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or human-made channels, or storm drains that:

(1) Is located within the corporate limits of the city;

(2) Is owned or operated by the state, county, the city, or other public body; and

(3) Discharges to waters of the state and/or United States, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the waters of the state and/or United States.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. Any permit or requirement enforced pursuant to the clean water act as amended for the purposes of regulating stormwater discharge.

NON-STORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON. Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner’s agent.

POLLUTANT. Anything which causes or contributes to pollution. POLLUTANTS may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid

wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables, pesticides, herbicides; hazardous substances and wastes; sewage, fecal coliform, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

POLLUTION. Human-made or human-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.

PREMISES. Any buildings, lot, parcel of land, or portion or land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM. Publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from the precipitation.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP). A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATERS OF THE STATE AND/OR UNITED STATES. All water bodies regulated by the state and/or United States including streams, lakes, ponds, wetlands, marshes, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations or water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof, or which may be susceptible to use in interstate or foreign commerce.

(Prior Code, § 7-10-2)

§ 53.03 APPLICABILITY.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Prior Code, § 7-10-3)

§ 53.04 RESPONSIBILITY FOR ADMINISTRATION.

The city shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Prior Code, § 7-10-4)

§ 53.05 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards, therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Prior Code, § 7-10-6)

§ 53.06 PROHIBITIONS.

(A) Prohibition of illicit discharges.

(1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(2) The commencement or continuance of any illicit discharge to the storm drain system is prohibited except as described as follows.

(B) Exempt discharges. The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources; landscape irrigation or lawn watering; diverted stream flows; rising ground water; ground water infiltration to storm drains; uncontaminated pumped ground water; foundation or footing drains (not including active ground water dewatering systems); crawl space pumps; air conditioning condensation; springs; non-commercial washing of

vehicles; natural riparian habitat or wet-land flows; dechlorinated swimming pools; fire fighting activities; and any other water source not containing pollutants:

(1) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety;

(2) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test; and

(3) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(C) Prohibition of illicit connections.

(1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows a connection to continue.

(Prior Code, § 7-10-7) Penalty, see § 10.99

§ 53.07 SUSPENSION OF MS4 ACCESS.

(A) Emergency cease and desist orders. When the city finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, or that the person’s past violations are likely to recur, and that the person’s violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city may issue an order to the violator directing it immediately to cease and desist all violations and directing the violator to:

(1) Immediately comply with all ordinance requirements; and

(2) Take appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge. Any person notified of an emergency order directed to it under this division (A) shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city may take the steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The city may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the authorized enforcement agency that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this chapter. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the authorized enforcement agency within seven days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(B) Suspension due to illicit discharges in emergency situations. The city may, without prior notice, suspend MS4 discharge access to a person when a suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state and/or United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take the steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state and/or United States, or to minimize danger to persons.

(C) Suspension due to detection of illicit discharges.

(1) Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if the termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(2) A person commits an offense if the person reinstates MS4 access to a premises terminated pursuant to this section without the prior approval of the authorized enforcement agency.

(Prior Code, § 7-10-8) (Ord. 606, passed 12-8-2014) Penalty, see § 10.99

§ 53.08 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the city prior to the allowing of discharges to the MS4.

(Prior Code, § 7-10-9)

§ 53.09 MONITORING OF DISCHARGES.

(A) Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity and construction activity.

(B) Access to facilities.

(1) The city shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter, in accordance with § 10.20. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The city shall have the right to set up on any permitted facility the devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility’s stormwater discharge.

(4) The city has the right to require the discharger to install monitoring equipment as necessary. The facility’s sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing the access shall be borne by the operator.

(6) Unreasonable delays in allowing the city access to a permitted facility is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

(7) If the city has been refused access to any part of the premises from which stormwater is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Prior Code, § 7-10-10) (Ord. 606, passed 12-8-2014) Penalty, see § 10.99

§ 53.10 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The city will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state and/or United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person’s expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

(Prior Code, § 7-10-11)

§ 53.11 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or the person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that the structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Prior Code, § 7-10-12)

§ 53.12 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the storm drain system, or water of the state and/or United States the person shall take all necessary steps to ensure the discovery, containment, and cleanup of the release. In the event of a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Public Works Director, City of Monticello within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of the establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. The records shall be retained for at least three years.

(Prior Code, § 7-10-13)

§ 53.13 ENFORCEMENT.

(A) Warning notice. When the city finds that any person has violated, or continues to violate, any provision of this chapter or any order issued hereunder, the city may serve upon that person or business a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or

after receipt of the warning notice. Nothing in this division (A) shall limit the authority of the city staff to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(B) Notice of violation. Whenever the city finds a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. The notice of violation shall contain:

(1) The name and address of the alleged violator;

(2) The address when available or a description of the building, structure, or land upon which the violation is occurring, or has occurred;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of the remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(6) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 30 days of service of notice of violation; and

(7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. The notice may require without limitation:

(a) Monitoring, analyses, and reporting;

(b) Elimination of illicit connections or discharges;

(c) Abatement of pollution and hazards;

(d) Restoration of affected property;

(e) Payment of fine to cover administrative and remediation costs;

(f) Implementation of source control or treatment BMPs; and

(g) Other actions as deemed necessary by the city.

(C) Deadline for restoration. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which the remediation or restoration must be completed. Notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a

designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Prior Code, § 7-10-14) (Ord. 606, passed 12-8-2014)

§ 53.14 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 14 calendar days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his or her designee shall take place within 30 calendar days from the date of receipt of the notice of appeal. The decision of the municipal authority or its designee shall be final.

(Prior Code, § 7-10-15)

§ 53.15 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within seven calendar days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property, in accordance with § 10.20. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Prior Code, § 7-10-16) Penalty, see § 10.99

§ 53.16 COST OF ABATEMENT OF THE VIOLATION.

Within 30 calendar days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 calendar days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this chapter shall become liable to the city by reason of the violation.

(Prior Code, § 7-10-17)

§ 53.17 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Prior Code, § 7-10-18) Penalty, see § 10.99

§ 53.18 COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, and the like.

(Prior Code, § 7-10-19)

§ 53.19 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement of processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator’s expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of the nuisance may be taken.

(Prior Code, § 7-10-20)

§ 53.20 CRIMINAL PROSECUTION.

(A) Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law.

(B) The enforcement agency may recover all attorneys’ fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Prior Code, § 7-10-21)

§ 53.21 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Prior Code, § 7-10-22)

CHAPTER 54: GARBAGE, REFUSE, AND RECYCLING

Section

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54.06 Revocation

54.07 Garbage/refuse/recycling services

54.08 Compost facilities

54.09 Ownership of recyclable materials set out for curb-side collection

54.99 Penalty

§ 54.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPOSTABLE BAG. A paper or plastic bag that meets the American Society for Testing Materials Standard Specification for Compostable Plastics (D6400).

ENFORCEMENT OFFICER. Any inspector or any other representative duly appointed by the City Council.

GARBAGE. All animal and vegetable waste and all putrescible matter.

PRIVATE DUMP. All parcels of land on which nonputrescible refuse is accepted for deposit or permitted to be deposited regardless of whether a charge is made therefor.

RECYCLING. The process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

REFUSE. All waste substances, including garbage.

SANITARY LAND FILL. A type of operation in which refuse is deposited by plan on a specified portion of open land, is compacted by forces applied by mechanical equipment, and then is covered by a layer of earth, ashes, or suitable covering material to a depth of at least two feet.

(Prior Code, § 7-6-1)

§ 54.02 DUMP REGULATIONS.

(A) The following regulations shall be observed by any person to whom a permit is issued by the city for the operation of all a sanitary landfill or dump.

(B) These regulations shall govern the operation of all the city-approved sanitary landfills and dumps, and any failure to observe these regulations shall be sufficient grounds for the revocation of the permit by the City Council.

(1) All garbage and other refuse accepted by the landfill permit holder shall be thoroughly compacted by equipment of a size and weight capable of producing a downward or ground pressure of at least five pounds per square inch. The equipment shall have sufficient weight and capacity to carry out all necessary operations to the satisfaction of the enforcement officer. Sufficient auxiliary equipment shall be maintained on the site or otherwise available to permit operation in case of a breakdown.

(2) Mixed refuse material shall be spread out on the working face of the landfill so that the depth does not exceed a maximum depth of two feet prior to its compaction.

(3) The areas shall be continually policed to prevent fire and the blowing of papers, shall be neat and sanitary at all times, and shall be covered at the end of each day’s operation, as well as when wind conditions warrant it through the day, with sufficient material to prevent blowing papers and unsightly conditions. The size of the active face on which refuse is being currently deposited shall be kept to a minimum.

(4) Cover material will consist of earth, loam, clay, sand, or a mixture of at least 50% earth and other inert materials such as ashes, cinders, or gravel. A minimum depth of 12 inches of compacted cover and final spread cover material shall be kept on all inactive faces of the landfill at all times. The active faces of the landfills should be covered at the end of each day's operation or as otherwise directed by the inspector.

(5) When the landfill or dump has been brought up to two feet below the desired finished grade, it shall be covered with at least 24 inches of compacted cover material graded and seeded in a manner as to prevent erosion.

(6) Where the "trench system" of sanitary landfill is used, successive paralleled trenches must be at least two feet apart.

(7) All garbage and refuse material existing on the site at the time the permit is issued either in the form of an open dump or any other form shall be collected, compacted, and covered with cover material at least one foot in depth if below the desired finished grade or with inert material at least two feet in depth at the finished grade. This cover operation shall be completed within 15 working days after the issuance of a special permit for the sanitary landfill.

(8) The permittee or operator shall erect such temporary or permanent fences or take other measures as may be necessary to reasonably control blowing of paper and other materials from the landfill or dump.

(9) Any material salvaged from the landfill or dump must be handled and stored in a manner as to prevent rat harborage and permit proper operation of the landfill or dump. The salvaged material must be removed to a location at least 200 feet from the working surface so as not to interfere with the compacting and covering. All salvaged material must be completely removed from the site every 24 hours unless provision is made for temporary storage within an enclosed, roofed, and rat-proof structure approved by the inspector.

(10) Burning of any materials deposited in a dump or landfill is expressly prohibited, except that in the case of tree limbs, wooden crates, which burn readily without smouldering or producing offensive odors, may be burned in a separate place at least 200 feet away from the area where refuse is being compacted and covered, provided precautions are taken to confine the fire and the burning is done in a manner as not to create a nuisance condition. All burning shall be restricted to the hours between 11:00 a.m. and 3:00 p.m.

(11) Adequate fire fighting equipment shall be available at all times on the site or the operator shall furnish the inspector with proof of fire fighting equipment between the operator and the local fire district.

(12) No fill shall be placed in stream beds or other areas where streams would be obstructed or where erosion by the stream would remove cover material. There shall be no seepage or drainage of any material from the fill of a nature as would constitute an odor nuisance or health hazard or pollute any watercourse.

(13) The permit holder shall provide an access road approved by the inspector that is passable in all types of weather conditions to the dumping site.

(14) The license holder shall also provide an auxiliary fill site available and ready for use during periods of heavy rain or snowfall and when the area being filled and covered may not be reached because of the weather condition. The permit holder shall also take precautions to eliminate excess dust in dry weather.

(15) Insects and rodents on the site shall be controlled and exterminated as directed by the inspector.

(16) The permit holder shall cease operations and close the landfill between the hours of 7:00 p.m. and 6:00 a.m. and on Sundays and holidays.

(17) For good and sufficient reasons, the City Council may grant exceptions to the above operating procedures and standards or may impose additional requirements subject to specific site conditions.

(Prior Code, § 7-6-4)

§ 54.03 INCINERATOR; LICENSE FEE.

If a permittee wishes to install an incinerator at a dump or landfill, he or she shall apply to the City Council for permission to do so. The Council shall refer the request to the Planning Commission and engineer for recommendations as to whether an incinerator shall be permitted and, if so, what conditions, if any, shall be imposed in connection with the incinerator. After receiving the reports, the Council may grant or deny the request for the incinerator; and if the request is granted, conditions may be imposed in connection with the operation of the incinerator. If the request is granted, the annual license fee shall be increased by $25.

(Prior Code, § 7-6-5)

§ 54.04 DUMPING ONLY IN PERMITTED PLACES.

No person, including those persons hauling or disposing of garbage or refuse, trash, or other rubbish for a fee, shall deposit or dispose of any

garbage, trash, or other refuse on any property in the city not operated under a permit issued by the City Council. Each sanitary landfill or dump shall display a prominent sign containing the words “Approved Sanitary Landfill or Dump Operated Under Permit No. issued by the City of Monticello”.

(Prior Code, § 7-6-6)

§ 54.05 OFFICER RESPONSIBLE.

The officer responsible for the enforcement of the provisions of this subchapter shall be appointed by the City Council. He or she shall provide adequate and frequent inspections of the sanitary landfill sites and to this end shall be authorized to call upon the Planning Commission for assistance in making inspections. He or she shall notify any permit holder who is violating the provisions of this subchapter of the specific manner in which the subchapter is being violated. Unless the violation is corrected within 24 hours after notice in writing to the permit holder by the inspector, the inspector shall notify the Council of any violation of the provisions of this subchapter that the Council may, after a public hearing to which the violator shall have been invited, suspend or revoke any permit for noncompliance or violation of any of the provisions of this subchapter or when satisfied that the landfill or dump constitutes a real menace and nuisance to the health, safety, and welfare of the immediate residents in the neighborhood in which it is located. In the event the permit holder refuses to correct the violation within 24 hours after notice in writing by the inspector, the inspector may, if he or she deems it necessary in the interest of public health, enter upon the premises of the dump or landfill and, either with the equipment and by employees of the license holder, or with the city-owned or leased equipment and city employees, do the work as is necessary to correct any condition violative of this subchapter, and which in his or her opinion if left uncorrected may be hazardous to the public health. The cost to the city of correcting the condition in privately owned dumps or landfills shall be assessed against the permit holder who shall be required to pay all the costs and expenses of the city in correcting the conditions.

(Prior Code, § 7-6-7)

§ 54.06 REVOCATION.

Any permit or license granted hereunder may be revoked or suspended at any time for any failure to pay the license fee or the cost of correcting hazardous conditions as hereinbefore set forth or whenever, in the opinion of the inspector, the continuance of the landfill or other means of final disposal of refuse would endanger the health, welfare, or safety of the

public, provided that no such permit or license shall be revoked or suspended except for to pay the fee, or the cost of correcting hazardous conditions as herein provided except after public hearing before the City Council after the notice of the hearing, and the purpose thereof shall have been sent to the permit holder at least ten days prior to the date of the hearing, at which hearing any person interested in the landfill shall have the right to be heard.

(Prior Code, § 7-6-8)

§ 54.07 GARBAGE/REFUSE/RECYCLING SERVICES.

(A) Service rates. The city operates an organized garbage collection and disposal program for all residential properties within the city under the authority of M.S. Ch. 443, as it may be amended from time to time. The city hereby establishes a per unit service charge for garbage/refuse/recycling collection and related services for each residential property unit that is individually served.

(1) A service charge for garbage/refuse/recycling collection, disposal, and container rental provided to residential units within the city shall be billed at the rates as established by City Council.

(2) Recycling services are provided for all residential units in the city as per the city's requirements under the city recycling plan.

(3) Garbage/refuse/recycling bills shall be payable monthly with the utility bill by the date specified on the bill. Mobile home parks shall be billed in aggregate to the owner of the mobile home park. For other clustered individually served residential units such as townhomes, the city has the discretion to bill either a home owner association in aggregate or each homeowner. Monthly charges apply to temporarily vacated property. The charge is for service rendered in the month of the bill. Penalties will be assessed on delinquent garbage/refuse/recycling charges at the same rate as other utility charges.

(B) Delinquent garbage/refuse/recycling accounts.

(1) All charges for garbage/refuse/recycling service shall be due by the due date stated on the utility bill. Any bill not paid by the due date shall be deemed delinquent. Thereafter, the delinquent garbage/refuse/recycling service charge shall be certified to the City Clerk who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the properties involved. The assessment roll shall be delivered to the City Council for adoption before October 30 of each year. Upon the adoption, the City Clerk shall certify the assessment roll to the County Auditor for collection along with taxes.

(2) The city reserves the right to discontinue service to any customer for nonpayment of charges or bills whose account is more than 60 days past due. The discontinuance of service shall not be made without written notice. If service is disconnected, it shall not be resumed except upon payment of the charges or bills accrued together with interest and penalty thereon.

(C) Revision of garbage/refuse/recycling rates and recycling plan. The City Council reserves the right to adjust the rates charged from time to time and to amend the city's garbage/refuse/recycling policy.

(Prior Code, § 7-6-9) (Ord. 195, passed 8-27-1990; Ord. 214, passed 10-28-1991; Ord. 317, passed 9-28-1998; Ord. 520, passed 9-13-2010; Ord. 688, passed 12-11-2017)

§ 54.08 COMPOST FACILITIES.

(A) Only yard waste and compostable bags, as specifically identified on the bag as ASTM 6400, may be accepted at the compost facility.

(B) All residents who bag their leaves for curbside pickup are required to use compostable bags (identified on the bag as ASTM 6400).

(Ord. 694, passed 3-12-2018)

§ 54.09 OWNERSHIP OF RECYCLABLE MATERIALS SET OUT FOR CURB-SIDE COLLECTION.

(A) Intent. The intent of this subchapter is to prevent the unauthorized collection of materials that are designated as recyclables and set out as part of the city's curb-side recycling program. The theft of these materials will deprive the contractor of their market value and forces overall costs to go up. These costs will eventually be passed on to the citizens of the city. The city will also be deprived of credit for recycling tonnage reported to the county and the state.

(B) Definitions. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONTRACTOR. Any person/firm that has entered into a written contract with the city for the collection of garbage, rubbish, recyclables, and yard waste.

CURB-SIDE RECYCLING PROGRAM. The organized collection of items designated as recyclable by the contractor in accordance with the city's plan.

ITEMS DESIGNATED AS RECYCLABLE. Items agreed upon by the city and the contractor to be collected in the curb-side recycling program.

SET OUT FOR COLLECTION. The placing of materials designated as recyclables by the residents of the city at curb side for collection by the contractor.

UNAUTHORIZED COLLECTION (SCAVENGING). The collection by any person(s) other than the contractor or his or her authorized representative of materials that are designated as recyclables and set out for collection by the residents.

(C) Prohibition of unauthorized collection of materials set out for the curb-side recycling program.

(1) The materials designated as recyclable shall be the sole property of the city from the time of set out for collection by the resident or when placed in the designated containers in the case of multiple units until collection by the contractor. At the time of collection, items designated as recyclable shall become the sole property of the contractor.

(2) The designation of recyclables shall be accomplished by mutual agreement between the city and the contractor.

(3) It shall be unlawful for any person(s) other than the authorized contractor or his or her representative to collect any items that are designated as recyclables and set out for collection as part of the city’s curb-side recycling program.

(Prior Code, § 7-6-10) (Ord. 182, passed 10-23-1989; Ord. 358, passed 1-8-2001) Penalty, see § 54.99

§ 54.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of §§ 54.01 through 54.09 is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 7-6-10) (Ord. 182, passed 10-23-1989; Ord. 358, passed 1-8-2001)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL REGULATIONS
71. RECREATIONAL MOTOR VEHICLES

CHAPTER 70: GENERAL REGULATIONS

Section

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TRAFFIC REGULATIONS

§ 70.01 ACT ADOPTED.

The regulatory provisions of M.S. Ch. 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets, and alleys within the city and are hereby incorporated in and made a part of this subchapter as complete as if set out here in full.

(Prior Code, § 9-1-1)

§ 70.02 PARKING AND STOPPING.

(A) Except for the city or county on its own rights-of-way, no person shall utilize any portion of any local public right-of-way, including the traveled street, boulevard, or public parking lot for the storage or parking of any object or material which is not a licensed, operable motor vehicle, passenger vehicle, or motorcycle as defined by M.S. § 169.011, subd. 42, 44, and 52, as they may be amended from time to time, except as may be explicitly permitted on a temporary period of time by the City Council or its designated representative.

(B) Properly licensed, operable motor vehicles, passenger vehicles, and motorcycles may be parked in the public street where permitted but not on the boulevard portion of the public right-of-way subject to the further requirements of local parking regulations and applicable state statutes. A trailer of any type, properly licensed or not, is not considered a motor vehicle or part thereof when disconnected from its tow vehicle:

(1) On a sidewalk or boulevard between sidewalk and roadway;

(2) On a crosswalk;

(3) Within an intersection;

(4) Within 20 feet of a crosswalk at any intersection;

(5) Within ten feet of a fire hydrant;

(6) Within 30 feet of any arterial stop sign or sign indicating the direction for travel;

(7) On the roadway side of any vehicle stopped or parked at the edge or curb of a street or highway;

(8) At any place where official signs prohibit stopping, standing, or parking;

(9) In any manner on any street or highway so as to interfere with or interrupt the passage of other vehicles;

(10) Along the curb adjacent to any school property from 8:00 a.m. to 4:00 p.m. on days when school is in session;

(11) On any street or roadway when a snow event is declared, except physicians on emergency calls;

(12) On any city street for more than 72 consecutive hours;

(13) On any city street for more than the posted time limit as established by the City Council; and/or

(14) Within ten feet of a mailbox.

(Prior Code, § 9-1-2) (Ord. 65, passed 3-12-1979; Ord. 193, passed 5-14-1990; Ord. 449, passed 8-28-2006; Ord. 748, passed 9-28-2020; Ord. 792, passed 11-14-2022) Penalty, see § 70.99

§ 70.03 REMOVAL OF VEHICLES.

Whenever any police officer finds a motor vehicle has been parked or stopped in violation of any regulation contained herein, the officer is hereby authorized to move the vehicle, provide for the removal of the vehicle and the impounding of the same, or require the driver or other person in charge of the vehicle to move the same. Any removal and/or impounding of the vehicle shall be at the expense of the owner.

(Prior Code, § 9-1-3)

§ 70.04 OWNER.

For the purposes of this section, the term OWNER shall mean the person, firm, or corporation who holds legal title on the date of any alleged violation as evidenced by the official records of the state’s Secretary of State. Copies of any of the files or records of the Secretary of State certified as being true copies shall be received in evidence with the same force and effect as the originals, shall be admissible without further foundation, and shall be prima

facie evidence as to the ownership of the vehicle, but nothing herein contained shall exclude or prohibit the introduction of other evidence bearing on the issue of ownership.

(Prior Code, § 9-1-4)

§ 70.05 PROTECTION AND PRESERVATION OF CITY STREETS.

(A) Tractors or other types of vehicles with lugs. Tractors or other vehicles with lugs thereon or any other type of farm machinery that is not equipped with rubber tires are hereby prohibited from using bituminous treated streets or parking lots in the city; and whoever drives such a vehicle upon the streets whereby the streets or parking lots shall be damaged shall be guilty of a misdemeanor.

(B) Load limits on city streets or parking lots. It shall also be unlawful for any person or persons, firm, or corporation to drive any vehicle over streets or parking lots having an axle weight load in excess of five tons during periods of the year when county road restrictions are not in effect. During periods of county road restriction or on streets designed for more than five tons, the current city street design map adopted by the City Council shall take precedence over the five ton limit and can be more or less restrictive. Any person, firm, or corporation wishing to drive vehicles in excess of above mentioned weight over any of the streets of the city shall first apply to the City Administrator for his or her permission. The Council may designate certain streets to be used regularly by such persons, firm, or corporation in the operation of their business, outlining certain routes that the vehicles are to follow and that no deviation from the routes will be permissible.

(C) Trucks operating on residential streets. It will be unlawful for any person or persons, firms, or corporations to operate a truck of over 12,000 pounds gross weight on residential streets except those trucks that are actually engaged in making deliveries or pickups at residential dwellings. Further, they will utilize state highways or designated truck routes wherever possible when making these deliveries or pickups. All other truck traffic not making deliveries or pickups will utilize only state highways or designated truck routes. Trucks making deliveries or pickups on residential streets will adhere to the provisions of division (B) above.

(Prior Code, § 9-1-5) (Ord. 146, passed 4-8-1985; Ord. 358, passed 1-8-2001) Penalty, see § 70.99

§ 70.06 STREET NAMES.

Street names have been adopted according to the official city map on file at City Hall.

(Prior Code, § 9-1-6) (Ord. 26, passed 12-27-1976)

§ 70.07 UNREASONABLE ACCELERATION AND ERRATIC DRIVING.

(A) Unreasonable acceleration.

(1) Unreasonable acceleration by any motor vehicle upon any public highway, street, parking lot, alley, or other public property within the limits of the city, except when an emergency creates the necessity for such operation, is prohibited.

(2) UNREASONABLE ACCELERATION OF A MOTOR VEHICLE is hereby defined as acceleration which unnecessarily breaks traction between a tire or tires and the driving surface, thereby causing a squealing or screeching sound by the tire or tires or the unnecessary throwing of sand or gravel by the tire or tires or both.

(B) Erratic driving. No person shall drive a vehicle on a public highway, street, parking lot, alley, or other public property at erratic or irregular and changing speeds so as to create a hazard to himself or herself or other persons or property or so interfere with other traffic in the area.

(C) Exhibition driving.

(1) No person shall drive or operate a motor vehicle upon any public highway, street, parking lot, alley, or other public property within the limits of the city which causes unnecessary engine noise or backfire, nor shall anyone between the hours of 7:00 p.m. and 7:00 a.m. parade a motor vehicle upon any public highway, street, parking lot, alley, or other public property within the limits of the city.

(2) PARADE A MOTOR VEHICLE is hereby defined as driving or operating a motor vehicle up, down, or up and down, the same highway, street, parking lot, alley, or other public property more than three times within a 30-minute period.

(Prior Code, § 9-1-7) (Ord. 42, passed 10-10-1977; Ord. 164, passed 10-11-1988; Ord. 358, passed 1-8-2001) Penalty, see § 70.99

§ 70.08 PARKING IN REGARD TO SNOW PLOWING AND/OR REMOVAL.

(A) After a snowfall, all streets in the city shall be cleared of all motor vehicles and parts thereof for the purposes of snow plowing and/or removal until all streets are plowed.

(B) Any motor vehicle or parts thereof left on any street or boulevard in the city in a way as to impede the performance of the city and/or state snowplow shall be dealt with under § 10.99.

(Prior Code, § 9-1-8) (Ord. 155, passed 4-13-1987)

§ 70.09 UNLAWFUL PURPOSES FOR PARKING (OVERNIGHT LODGING).

No person shall park a vehicle upon the park and ride lot for the purpose of camping, sleeping, or inhabiting the lot.

(Prior Code, § 9-1-9) (Ord. 624, passed 9-28-2015) Penalty, see § 70.99

BOULEVARDS

§ 70.20 PURPOSE.

The purpose of this subchapter is to protect public rights-of-way in the city from encroachments.

(Prior Code, § 8-5-1)

§ 70.21 DEFINITION.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOULEVARD. The portion of the public right-of-way not used for street purposes.

CLUSTER CONCEPT. Mailboxes in groups of four or more with groups no closer than 200 feet to another group, and placed at locations and configurations as approved by the City Street Superintendent and/or U.S. Post Master.

(Prior Code, § 8-5-2)

§ 70.22 ALLOWABLE USES.

Following are allowable uses of a boulevard:

(A) Trees or shrubs as regulated by § 92.48;

(B) Mailboxes for U.S. Postal Service, provided all installations of mailboxes in new subdivisions are of the “cluster” concept;

(C) Driveway accesses as regulated by city’s zoning ordinance;

(D) Sidewalks when constructed according to specifications as set forth and approved by the City Engineer; and

(E) Advertising/newspaper boxes or tubes under the following conditions.

(1) The advertising/newspaper boxes or tubes must be of an all-purpose/universal type without any advertising, whether individual or cluster concept.

(2) (a) The following subdivisions/areas may continue to have one advertising/newspaper box per parcel until the time as the U.S. Postal Service or developer converts individual mail boxes to the “cluster” box concept:

1. East County Road 39;
2. Hart Boulevard;
3. Anders Wilhelm and Balboul Estates; and
4. West County Road 75.

(b) Upon conversion of mail boxes to the cluster concept all advertising/newspaper boxes must also be clustered.

(3) In all new subdivisions or areas where the U.S. Postal Service, developer, or owner installs cluster mail boxes, all advertising/newspaper boxes shall be allowed by the cluster concept only.

(4) All advertising/newspaper boxes, whether individual or clustered, shall be maintained by the installer and shall be repaired or replaced within ten days upon written notice by the city, or the city will have the box or boxes removed at the owner’s expense. The city shall not be responsible for damage to any box erected within the boulevard.

(5) All mailboxes including posts, supports, and clusters for U.S. Postal Service and advertising are the responsibility of the properties included in the mailbox.

(Prior Code, § 8-5-3) (Ord. 154, passed 4-13-1987; Ord. 156, passed 6-22-1987; Ord. 254, passed 8-8-1994)

§ 70.23 PROHIBITED USES.

All uses of a boulevard not listed in § 70.22 are prohibited unless a permit has been approved by the City Council.

(Prior Code, § 8-5-4) Penalty, see § 70.99

§ 70.24 MAINTENANCE.

Property owners abutting a boulevard are responsible for maintenance.

(Prior Code, § 8-5-5) (Ord. 48, passed 4-10-1977)

REGISTRATION OF VEHICLES AND OPERATORS

§ 70.35 MOTOR VEHICLES; APPLICATION.

Every motor vehicle used or operated on any highway within the city shall be registered in compliance with the provisions of M.S. Ch. 168, as it may be amended from time to time.

(Prior Code, § 9-2-1)

§ 70.36 DRIVER'S LICENSES; APPLICATION.

Every person who is required by M.S. Ch. 171, as it may be amended from time to time, to be licensed in order to operate a vehicle or a motor vehicle upon a highway within the state shall at all times while operating a vehicle or motor vehicle on any highway within the city have in his or her immediate possession, a license issued in compliance with the provisions of M.S. Ch. 171, as it may be amended from time to time.

(Prior Code, § 9-2-2)

§ 70.37 DEFINITIONS.

The words and phrases HIGHWAY, MOTOR VEHICLE, OWNER, PERSON, and VEHICLE shall have the meanings ascribed to them by M.S. Ch. 168 and Ch. 171, as they may be amended from time to time.

(Prior Code, § 9-2-3)

§ 70.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any violation of the statutes adopted by reference in § 70.01 is a violation of the ordinance when it occurs within the city. Any person thus violating any provision of § 70.01 shall be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law. If a minimum fine or imprisonment is prescribed by the state's Highway Traffic Act, being M.S. Ch. 169, as it may be maned from time to time, for the offense or if the offense be classified as a petty misdemeanor, the penalty and/or classification shall apply to a person convicted of the same offense under § 70.01.

(Prior Code, § 9-1-1)

(C) Any person violating any provision of § 70.05 is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 9-1-5)

(D) Any person violating any provision of § 70.07 is guilty of a petty misdemeanor and upon conviction shall be punished not more than the maximum penalty as prescribed by state law.

(Prior Code, § 9-1-7)

(E) The owner and operator of any motor vehicle operated in violation of § 70.35, and any person violating § 70.36 hereof, shall be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law. If a minimum fine or imprisonment is prescribed by state law for an offense or if the offense be classified as petty misdemeanor, the penalty and/or classification shall apply to the person convicted of the offense under §§ 70.35 or 70.36.

(Prior Code, § 9-2-4)

(Ord. 164, passed 10-11-1988; Ord. 358, passed 1-8-2001)

CHAPTER 71: RECREATIONAL MOTOR VEHICLES

Section

71.01 Purpose and intent

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71.04 Restrictions of recreation motor vehicles

71.05 Designation of public areas for use

71.06 Minimum equipment requirements

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71.08 Compliance

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71.99 Penalty

§ 71.01 PURPOSE AND INTENT.

The purpose of this chapter is to provide reasonable regulations for the use of recreational motor vehicles on public and private property in the city. It is intended to protect life, property, and to prevent public nuisances. No section hereafter shall be construed to minimize regulations set forth in M.S. Ch. 168 (Motor Vehicle Registration), as it may be amended from time to time, M.S. Ch. 169 (Motor Vehicle Operation)/(Driver License Regulations), as it may be amended from time to time, and M.S. §§ 84.81 et seq. (Snowmobile Regulations), as it may be amended from time to time.

(Prior Code, § 9-3-1) (Ord. 777, passed 5-23-2022)

§ 71.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALL-TERRAIN VEHICLE or VEHICLE. Has the meaning given in M.S. § 84.92, subd. 8, as it may be amended from time to time.

CLASS 1 ATV. An ATV that has a total width from outside of tire rim to outside of tire rim that is 50 inches or less.

CLASS 2 ATV. A Class 2 all-terrain vehicle means an all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim to outside of tire rim that is greater than 50 inches but not more than 65 inches.

DRIVER-OPERATOR. Every person who drives or operates and is in actual physical control of a recreational vehicle.

ELECTRIC-ASSISTED BICYCLES. A device with two or three wheels; a saddle and fully operable pedals for human propulsion; and an electric motor that is: 1,000 watts or less, incapable of propelling faster than 20 miles per hour, incapable of further increasing the speed of the device when human power alone is used to propel the vehicle at a speed of more than 20 miles per hour and disengages or ceases to function when the vehicles brakes are applied.

GOLF CART. A self-propelled three or four-wheeled vehicle designated for and commonly used for transportation on a golf course that is limited in engine displacement of less than 800 cubic centimeters and total dry weight of less than 800 pounds. Vehicles that are required to be registered with the Minnesota Department of Natural Resources do not fall within the definition of a golf cart for purposes of this code.

MOTORIZED FOOT SCOOTER. A device with handle bars designed to be stood or sat upon by the operator, and powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion, and that has no more than two 12-inch or smaller diameter wheels and has an engine or motor that is capable of a maximum speed of 15 miles per hour on a flat surface with not more than 1% grade in any direction when the motor is engaged.

OWNER. A person, other than a lien holder, having the property in or title to a recreational motor vehicle entitled to the use or possession thereof.

RECREATIONAL MOTOR VEHICLE (RMV). Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes including, but not limited to trail bike, off-highway motorcycle, as defined by M.S. § 84.787, Subd. 7, as it may be amended from time to time, or other all-terrain vehicle as defined by M.S. §§ 84.90 and 84.92, subd. 8 through subd. 10 as they may be amended from time to time, or motorized go-carts, hovercraft, or motor vehicle licensed for highway operation, which is being used for off-road recreational purposes, but not including motorized golf carts, personal electric mobility devices, motorized foot scooters, neighborhood electric vehicles, medium-speed electric vehicles, or mini-trucks.

SEGWAYS OR ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE. A self-balancing device with two tandem wheels, designed to transport not more than one person, and operated by an electric propulsion system that limits the maximum speed of the device to 15 miles per hour.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

(Prior Code, § 9-3-2) (Ord. 777, passed 5-23-2022)

§ 71.03 PERMITTED OPERATION OF A RECREATIONAL MOTOR VEHICLE.

The following recreational motor vehicles shall be specifically permitted.

(A) An all-terrain vehicle Class 2 ATV as defined M.S. § 84.92, subd. 10, as it may be amended from time to time, shall be permitted to operate on city street, or other city roadway and parking lot designed for vehicular traffic.

(1) Owner-operator must present proof of registration and display if the registration is required by M.S. § 84.92, as it may be amended from time to time and must be permitted by the city, fee set forth in the city's fee schedule.

(B) Snowmobiles may be operated for general recreational use as a direct route for access to and from the operator's residence for the purpose of entering or leaving the city on the extreme right-hand side of the right-of-way streets, roadways, or alleys that are used for other public motor vehicular travel and that are under the jurisdiction of the city and follow all regulations described in M.S. § 84.87, subd. 1, as it may be amended from time to time. Map of designated route on file at City Hall.

(C) Owner-operator must hold valid insurance complying with M.S. § 658.48, subd. 5, as it may be amended from time to time.

(D) Class 1 and Class 2 ATVs, golf carts and snowmobiles shall obey all city and state traffic laws when operating vehicles on city streets.

(E) A Class 1 ATV and golf-carts as permitted by the city and allowed in specific locations as noted in the City of Monticello Class 1 ATV/Golf Cart Street Map. Application for a permit must be made on a form with fee set forth in city fee schedule supplied by the city and must contain all of the following information:

(1) The registered owner's name, address, and telephone number;

(2) The make, model, year and ATV or golf cart;

(3) Proof of insurance. The applicant must provide evidence of insurance in compliance with the provisions of Minnesota Statutes;

(4) Current driver's license or reason for not having a current license; and

(5) Golf carts and Class 1 ATVs are only permitted to be operated on designated city streets. Designated streets are those which are considered to be local in nature, under Monticello jurisdiction, and 30 mph or less. Golf carts and Class 1 ATVs are not permitted to travel down county, state, or roads built with state-aid funds. the streets which are designated for golf cart operation are shown on the city's ATV/Golf Cart Street Map, which is

on file and of record with the City Clerk. Golf carts and Class 1 ATVs are permitted to cross over any non-designated street or highway that intersects a designated city street. With this exception, golf carts and Class 1 ATVs shall not, for any period of time or distance, travel down any streets or highways not permitted for golf cart use.

(F) Motorized foot scooters as defined by M.S. § 169.011, subd. 46, as it may be amended from time to time, may be operated within the city pursuant to and in accordance with M.S. § 169.225, as it may be amended from time to time.

(G) Segways or electric personal assistive mobility devices as defined by M.S. § 169.011, subd. 26, as it may be amended from time to time, may be operated within the city pursuant to and in accordance with M.S. § 169.212, as it may be amended from time to time.

(H) Electronic assisted bicycles as defined by M.S. § 169.011, subd. 27, as it may be amended from time to time, may be operated in the city pursuant to and in accordance with M.S. § 169.223, as it may be amended from time to time.

(Prior Code, § 9-3-3) (Ord. 777, passed 5-23-2022)

§ 71.04 RESTRICTIONS OF RECREATION MOTOR VEHICLES.

(A) Recreational motor vehicles shall not be allowed, except as specifically permitted in this chapter.

(B) It is a misdemeanor for any person to operate any recreational motor vehicle as listed below. Class 1 and Class 2 ATVs and snowmobiles may not operate:

(1) Between the hours of 11:00 p.m. and 7:00 a.m. within 300 feet of a residence;

(2) At a rate of speed greater than reasonable, prudent, or proper under all the surrounding circumstance, but in no case exceeding 15 mph for snowmobiles and 20 mph for Class 1 ATV;

(3) On publicly owned land, including school, city street, park property, playgrounds, or recreation areas, nor on any sidewalks or pathways in the city provided for pedestrian and/or bicycle travel;

(4) Class 1 and Class 2 ATVs cannot be operated on the road ditch bottom or outside ditch slope unless on a trail designated;

(5) At any place in a careless, reckless, or negligent manner so as to endanger or be likely to endanger any person or property or to cause injury or damage thereto;

(6) On private property or another without specific permission of the owner or person in control of the property;

(7) While under the influence of alcohol or drugs as defined in M.S. § 169A.20, as it may be amended from time to time;

(8) So as to intentionally chase, run over, or kill any animal;

(9) On any roadway, shoulder, or inside bank or slope of any city trunk, county state aid, or county highway in the city, except as provided in this chapter, nor shall operation on any such highway be permitted where the roadway directly abuts a public sidewalk or walkway;

(10) Without headlight and taillight lighted at all times if the vehicle is equipped

with headlight and taillight;

(11) Without a brake operational by either hand or foot; or

(12) No person under 18 years of age shall operate a Class 2 ATV while carrying a passenger except for a parent or lawful guardian.

(Prior Code, § 9-3-4) (Ord. 777, passed 5-23-2022) Penalty, see § 71.99

§ 71.05 DESIGNATION OF PUBLIC AREAS FOR USE.

The City Council may designate areas for use of recreational motor vehicles by approval of a majority of the members of the Council upon public notice being given.

(Prior Code, § 9-3-5) (Ord. 777, passed 5-23-2022)

§ 71.06 MINIMUM EQUIPMENT REQUIREMENTS.

(A) Class 1 ATV, Class 2 ATV and Snowmobiles.

(1) Standard mufflers shall be properly attached and in constant operation to reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe, or similar device on a recreational motor vehicle motor. The exhaust system shall not emit or produce a sharp popping or crackling sound.

(2) Brakes shall be adequate to control the movement of and to stop and hold under any conditions of operation.

(3) At least one clear lamp shall be attached to the front with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. This equipment shall be required and shall be in operating condition when the vehicle is operated between the hours of one-half hour after sunset and one-half hour before sunrise, or at times of reduced visibility.

(4) Snowmobiles require reflective material at least 16 square inches on each side, forward of the handlebars, so as to reflect a beam of light at a 90-degree angle.

(5) Seat belts are required to be worn by the operator and all passenger if the vehicle is equipped with them and the operator and all passengers shall wear a safety helmet approved by the Minnesota Commissioner of Public Safety when required by state law.

(6) A person less than 18 years of age shall not ride as a passenger or as an operator of a recreational vehicle regulated herein on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the Commissioner of Public Safety.

(7) A person less than 18 years of age shall not ride as a passenger or as an operator of a vehicle regulated herein without wearing a seat belt when a seat belt has been provided by the manufacturer.

(B) Golf Carts.

(1) The operator must have in his or her actual physical possession a valid, current, and unrevoked golf cart permit while operating the golf cart on a city street along with proof of insurance.

(2) Operator must be no less than age 16 and must hold a valid Minnesota Driver's license.

(3) The operator is responsible for operating the golf cart in accordance with this section, and all other city, county, and state laws and regulations.

(4) Golf carts must be operated on the pavement and not within any boulevard or ditch, city sidewalk, trail or walkway used for pedestrian travel, or other publicly owned land.

(5) Golf carts must only transport as many persons as it was designed by the manufacturer to carry.

(6) Golf carts must not be operated on city streets during inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions or at any time when there is insufficient visibility to clearly see persons or vehicles on the roadway at a distance of 500 feet.

(7) Every person operating a golf cart on a city street has the rights and duties applicable to the driver of any other vehicle and must comply with the provisions of any traffic law of the City of Monticello and M.S. Ch. 169, as it may be amended from time to time, except when these provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in M.S. § 169.045, subd. 7, as it may be amended from time to time.

(8) Equipment required. All golf carts must have the following equipment when operating on city streets:

(a) A slow-moving vehicle emblem provided in M.S. § 169.522 prominently displayed on the rear of the vehicle;

(b) A rear-view mirror so located as to reflect to the operator a view of the roadway for a distance of at least 200 feet to the rear of the vehicle;

(c) Parking brakes to hold the vehicle in place when unattended;

(d) Night driving. Golf carts may only be operated between the hours of sunrise and sunset unless equipped with original headlights, taillights, and rear-facing brake lights.

(Prior Code, § 9-3-6) (Ord. 777, passed 5-23-2022)

§ 71.07 STREET CROSSINGS.

(A) No person under 16 years of age operating the vehicles regulated herein shall make a direct crossing of any street, highway, or public right-of-way; or operate a vehicle regulated herein on a public street, highway, or road right-of-way; or operate a vehicle regulated herein on public lands or waters, except that a person at least ten years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 110cc on public lands or waters if accompanied by a parent or legal guardian.

(B) A recreational vehicle may make a direct crossing of a public road right-of-way provided:

(1) The crossing is made at an angle of approximately 90 degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing.

(2) The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the road.

(3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard.

(4) In crossing a divided road, the crossing is made only at an intersection of the road with another public road.

(5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

(Ord. 777, passed 5-23-2022)

§ 71.08 COMPLIANCE.

It is unlawful for an owner-operator to permit a recreational motor vehicle contrary to the provisions of this chapter.

(Prior Code, § 9-3-7) (Ord. 777, passed 5-23-2022) Penalty, see § 71.99

§ 71.09 PERMIT REVOCATION.

The city may suspend or revoke a permit granted hereunder upon finding that the holder has violated any of the provisions of this chapter.

(Ord. 777, passed 5-23-2022)

§ 71.99 PENALTY.

Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law. Hereunder upon a finding that the holder has violated any of the provisions of this section or M.S. Ch. 169, as it may be amended from time to time, or if there is evidence that the permit holder cannot safely operate the golf cart on the designated city streets.

(Prior Code, § 9-3-8) (Ord. 685, passed 11-27-2017; Ord. 777, passed 5-23-2022)

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CHAPTER 90: ANIMALS

Section

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DOGS AND OTHER DOMESTIC ANIMALS

§ 90.001 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL OFFICER. The person contracted with by the City Council, designated as such by it, to perform the duties prescribed by this subchapter as an independent contractor.

AT LARGE. When a dog it is off the property of the person owning, harboring, or keeping a dog and it is not under restraint.

CITATION. A notice or complaint issue by the Animal Control Officer to the owner of any animal apprising the owner of one or more violations of this subchapter.

COMMERCIAL KENNEL. A place where more than three dogs of over six months age are kept for purposes of breeding, sale, or boarding.

DOG KENNEL. Any place, building, tract of land, boat, or vehicle wherein or whereupon dogs are kept, congregated, or confined, the dogs having been obtained from municipalities, dog pounds, dog auction, or by advertising for unwanted dogs, or dogs abandoned or stolen.

OWNER. Any person owning, keeping, harboring, or acting as custodian of a dog or other domesticated animal.

PERSON. Any individual, firm, partnership, or corporation.

PREMISES. Any building, structure, shelter, or land whereon dogs or other animals are kept or confined.

PUBLIC NUISANCE ANIMAL OR ANIMALS. Any animal or animals which:

(1) If dog or dogs is/are repeatedly found at large;

(2) Damages the property of anyone other than its owner;

(3) Is/are vicious animal(s);

(4) Causes fouling of the air by odor;

(5) Causes unsanitary conditions of enclosures or surroundings;

(6) By virtue of number of types of animals maintained are offensive or dangerous to the public health, safety, or welfare;

(7) Excessively makes disturbing noises;

(8) Molests passer(s)by or passing vehicles; or

(9) Attacks other domestic animals.

UNDER RESTRAINT. On the premises of the person harboring or keeping the dog; within a private motor vehicle of a person owning, harboring, or keeping the dog; or controlled by a leash not exceeding six feet in length.

VETERINARY HOSPITAL. Place for the treatment, hospitalization, surgery, care, and boarding of animals or birds, which place is owned and operated by a licensed veterinarian.

VICIOUS ANIMAL OR ANIMALS. Any animal or animals which constitute a physical threat to human beings or other animals by virtue of one or more attacks of such severity as to cause property damage or physical injury, however slight.

(Prior Code, § 6-2-1)

§ 90.002 ENFORCEMENT.

The provisions of this subchapter shall be enforced by the Animal Control Officer and those officers designated in this subchapter. The Animal Control Officer and Wright County Sheriff’s office may issue citations for violations of this subchapter.

(Prior Code, § 6-2-2)

§ 90.003 RIGHT OF ENTRY.

The Animal Control Officer shall have the right to enter upon any premises at all reasonable times, in accordance with § 10.20, for the purpose of discharging the duties imposed by this subchapter where there is a reasonable belief that a violation of this subchapter has been committed.

(Prior Code, § 6-2-3)

§ 90.004 RUNNING AT LARGE PROHIBITED.

No dog shall be allowed by its owner to run at large, and every owner of a dog shall cause the same to be:

(A) Confined to the owner's property by training, fencing, or leashing, and females in heat shall be confined in an enclosure and so kept and confined therein during the entire period and until the dogs shall not attract other dogs on account thereof;

(B) While in any public place such as a school, playground, or a park, to be on a leash, chain, or cord of not more than six feet in length and in the custody of a person of sufficient age to adequately control the dog at all times; and

(C) While in all other areas such as on a public street or in an automobile, to be in the custody of a person of sufficient age to adequately control the dog at all times and to have and keep the dog under control.

(Prior Code, § 6-2-5) Penalty, see § 90.999

§ 90.005 WILD OR VICIOUS ANIMALS PROHIBITED.

No person shall keep or allow to be kept any place in the city an animal of a ferocious or vicious character, habit, or disposition, or any animal which is wild by nature.

(Prior Code, § 6-2-6) Penalty, see § 90.999

§ 90.006 ANIMAL CONTROL OFFICER.

(A) The City Council may appoint or designate an Animal Control Officer to enforce the provisions of this subchapter and to perform the duties in connection with the enforcement thereof as the City Administrator or the code of ordinances may direct. The City Administrator may authorize, at the times as he or she may deem necessary, persons designated under Animal

Control Officer to purchase equipment for the purpose of capturing and conveying to an animal pound all animals in violation of this code.

(B) The designee shall be under the supervision of the Animal Control Officer and the City Administrator and may be authorized to issue violation tags and to carry and display appropriate badges or identification.

(Prior Code, § 6-2-7)

§ 90.007 INTERFERING WITH ANIMAL CONTROL OFFICER.

No person shall in any manner molest, hinder, or interfere with the Animal Control Officer or designee employed directly or by contract with the city to capture animals and convey them to the animal pound while the person is engaged in the occupation. Whoever violates this section shall be guilty of a misdemeanor.

(Prior Code, § 6-2-8) Penalty, see § 90.999

§ 90.008 RABIES VACCINATION REQUIREMENTS.

(A) All dogs and cats, over the age of six months, kept, harbored, maintained, or transported within the city shall have current vaccinations given by a licensed veterinarian for rabies.

(B) A copy of certificate of vaccination shall be provided to the Animal Control Officer or designee.

§ 90.009 IMPOUNDMENT OF RABIES SUSPECTS.

(A) Any dog or cat not vaccinated in accordance with §§ 90.008 and 90.010 which has bitten any person and caused an abrasion or puncture of the skin of a person shall be seized and impounded under the supervision of a licensed veterinarian or at the city contract kennel facility for a period of not less than ten days. If, after a complete examination by a veterinarian the dog or cat has no clinical sign of rabies, it may be released to the owner upon the condition that the owner have the animal vaccinated as required by §§ 90.008 and 90.010 and licensed as required by § 90.013. In the case of a stray, the animal shall be disposed of in accordance with applicable laws. It shall be unlawful for any owner or person having custody or control of any dog or cat not vaccinated in accordance with §§ 90.008 and 90.010 and which has bitten any person to refuse to release the dog or cat and make it immediately available to the Animal Control Officer for the purpose of quarantine.

(B) Any dog or cat vaccinated in accordance §§ 90.008 and 90.010 which has bitten any person shall be confined by the owner or other responsible person in such manner as the Animal Control Officer may direct and for a period of not less than ten days. The Animal Control Officer or authorized representative shall conduct a mid-term and terminal examination of the animal. If no signs of rabies are observed by the Animal Control Officer, the domestic animal may be released from confinement. It shall be unlawful for any owner or person in custody or control of any vaccinated dog or cat which has bitten any person to refuse or fail to quarantine the dog or cat as required by this division (B). The Animal Control Officer or his or her agent shall seize any dog or cat not quarantined in accordance with this division (B).

(C) Any other animal which has bitten any person and caused an abrasion or puncture of the skin of a person shall be seized and impounded under the supervision of a licensed veterinarian or at the city contract kennel facility for a period of not less than ten days. If after a complete examination by a veterinarian the animal has no clinical signs of rabies, the animal may, with the approval of the Animal Control Officer, be released to the owner. In the case of an unclaimed animal, it shall be disposed of in accordance with applicable laws. It shall be unlawful for any owner or person in custody or control of any animal which has bitten any person to refuse to release the animal and make it immediately available to the Animal Control Officer for the purpose of quarantine.

(D) Any rabies suspect impounded or confined under this section which is found to be sick or diseased shall be reported immediately in writing to the Animal Control Officer by the attending veterinarian or operator of the quarantine facility. The Animal Control Officer shall then take possession of the animal for the purposes of determining if it is suffering from rabies.

(Prior Code, § 6-2-11) Penalty, see § 90.999

§ 90.010 CONFINEMENT OF ANIMALS WITH HISTORY OF BITING.

Every fierce, dangerous, or vicious animal, including dogs, that has a history of biting a human or any domestic animal, shall be confined by the owner within a building or secure, covered enclosure. The animal shall not be taken out of the building or secure, covered enclosure unless muzzled and on a leash.

(Prior Code, § 6-2-12) Penalty, see § 90.999

§ 90.011 ABANDONMENT OF ANIMALS.

It shall be unlawful to abandon any dog or other animal within this city.

(Prior Code, § 6-2-13) Penalty, see § 90.999

§ 90.012 DOG LICENSE REQUIRED.

(A) No person shall own, harbor, or keep a dog over six months of age within the city unless a current license for the dog has been obtained. The license shall be issued for a two-year period and shall expire on December 31 of the last year of the license issued. A late payment charge, in the amount set by the City Council from time to time, shall be assessed for failure to apply for a renewal license by March 1 of the year of expiration of the current license. The City Administrator may pro-rate the amount of the license fee of one who owns, harbors, or keeps a dog over six months of age for less than a full two-year period.

(B) The license fee for the keeping of a dog over six months of age may be waived on application by a person who shall certify that he or she is over the age of 65 years and has an annual income not in excess of $5,000.

(Prior Code, § 6-2-14) Penalty, see § 90.999

§ 90.013 DOG LICENSE FEE AND APPLICATION.

(A) It shall be required of each person owning, keeping, or harboring a dog to pay a license fee to the City Administrator or Animal Control Officer as imposed by this section, except as provided in § 90.011 herein. The license fee for any dog shall be computed at the rate duly set by the City Council. Each application for the license shall include a statement, signed by the person applying for the license, which certifies that the dog has been inoculated for rabies not more than 24 months preceding the date of application. Receipt of license which includes the color, breed, age, sex, and weight of the dog shall be provided by the owner for inspection upon the request of the Animal Control Officer or Wright County Sheriff.

(B) The provisions of this section shall not apply to service dogs or dogs used for police activity.

(Prior Code, § 6-2-15)

§ 90.014 UNAUTHORIZED USE OF DOG LICENSE RECEIPTS, TAGS OF INOCULATION CERTIFICATES.

It shall be unlawful for any person to use for any dog a license receipt, license tag, or a rabies inoculation certificate issued to another person or dog.

(Prior Code, § 6-2-16) Penalty, see § 90.999

§ 90.015 LIMIT ON NUMBER OF DOGS AND CATS.

(A) Generally. Except for kennels licensed under this section the following limits on animals will apply. For the purposes of this section, the term HOUSEHOLD refers to a single-family residence or single unit of a town home, condominium, apartment, or comparable structure which is rented, leased, or used as a single unit. This section shall not be construed to limit the ability of apartment managers, landlords, town home associations, or other representative of property owners to impose greater restrictions.

(B) Dogs. No household shall keep, maintain, or otherwise house more than a total of three dogs over the age of six months within any household in the city.

(C) Cats. No household shall keep, maintain, or otherwise house more than a total of four cats over the age of six months within any household in the city.

(D) Congregate limit. No household shall keep, maintain, or otherwise house more than five domestic animals - combination of dogs and cats unless authorized by a residential or commercial kennel license.

§ 90.016 DOG TAGS.

The City Administrator or designee shall procure a sufficient number of metallic tags for delivery of one such tag to the person paying the license fee. It shall be the responsibility of the owner of the dog for which the tag was obtained to permanently attach the tag to the collar of the dog in a manner that the tag may be readily seen. The tag is not transferrable to any other dog or to a new owner of the dog. If a tag is lost or stolen, the owner may obtain a new tag by surrendering the license receipt for the first tag and by paying an additional fee as duly set by the City Council from time to time.

(Prior Code, § 6-2-17)

§ 90.017 IMPOUNDING DOGS.

The Animal Control Officer shall seize and impound any dogs found in the city without the tag provided for by this subchapter or dogs running at large. To enforce this subchapter, the Animal Control Officer may enter upon any private premises in pursuit of a dog running at large, in accordance with § 10.20. It shall be unlawful for any person or persons to interfere with the Animal Control Officer engaged in taking a dog hereunder for impounding or to refuse to surrender a dog to the Animal Control Officer for confinement as required.

(Prior Code, § 6-2-18) Penalty, see § 90.999

§ 90.018 IMPOUNDING STRAY DOGS.

(A) The Animal Control Officer may seize or impound any dog found astray on public property or claimed to be astray by the owner of the premises upon which the animal may be found, provided that the owner of the premises demands the seizure or impoundment and agrees in writing to indemnify and hold harmless the city from any claim for damages by the owner of the dog.

(B) Disposition of the impounded stray shall thereafter be pursuant to the provisions as found in this chapter.

(Prior Code, § 6-2-19)

§ 90.019 DISPOSITION OF CERTAIN DISEASED OR DANGEROUS DOGS OR OTHER ANIMALS.

(A) Any dog or other animal displaying symptoms of being rabid may be seized at any place or time and shall be confined in the city dog pound or other appropriate place designated for the purpose by the City Council from time to time at the expense of the owner until found to be free from rabies.

(B) If any dog or other animal appears to be diseased, vicious, dangerous, rabid, or has been exposed to rabies, and the dog or other animal cannot be taken up and impounded without serious risk, the dog or other animal my be killed if reasonably necessary for the safety of any person or persons.

(C) When any dog or other animal has bitten any person wherein the skin has been punctured or the services of a doctor are required, a report of the incident shall be made to the Wright County Sheriff’s office and Animal Control Officer by the owner or custodian of the biting dog or animal or the person bitten, or his or her parent or guardian, within 24 hours of the bite.

(Prior Code, § 6-2-20)

§ 90.020 REDEMPTION OF DOGS AND OTHER ANIMALS.

(A) The city, upon the impounding of any dog or other animal, may condition redemption of the dog from impounding upon payment of the required impounding fee as duly set by the City Council from time to time, plus the cost of boarding for each day of said dog or other animal that has been confined in the pound, together with the payment for a current license for the dog if no current license has been issued.

(B) If at the end of six days after the impounding the dog or other animal has not been redeemed, it may be sold at private sale, or the keeper of the pound may dispose of the dog or other animal in a humane manner or pursuant to the terms of M.S. § 346.37, as it may be amended from time to time.

(Prior Code, § 6-2-21)

§ 90.021 POSSESSION OF NUISANCE ANIMALS.

No person shall keep, own, harbor, or otherwise possess within the city an animal which is a public nuisance animal or vicious animal.

(Prior Code, § 6-2-22) Penalty, see § 90.999

§ 90.022 DOGS DISTURBING THE PEACE; ENFORCEMENT.

It shall be unlawful for any person to own, keep, have in possession, or harbor any canine which howls, yelps, or barks to the reasonable annoyance of another person or persons. Any person violating this section who, upon first requested by an Animal Control Officer or any duly authorized assistant to stop or prevent the annoyance and refuses to comply with the request, will be issued a citation and, if the officer deems it necessary to stop the annoyance, may have the canine taken to the city animal pound. Any canine placed in the pound may be reclaimed by the owner upon payment of the fee prescribed. If not reclaimed, it may be disposed of in the proper manner.

(Prior Code, § 6-2-23) Penalty, see § 90.999

§ 90.023 CLEANING UP LITTER.

(A) The owner of any animal, or any person having the custody or control of any animal, shall be responsible for cleaning up any feces of the

animal and disposing of the feces in a sanitary manner. More than six piles of feces in the yard may result in a violation tag being issued.

(B) It is unlawful for any person owning, keeping, or harboring an animal to cause or permit the animal to be on property, public or private, not owned or possessed by the person without having in his or her immediate possession a device for the removal of feces and depository for the transmission of excrement to a proper receptacle located on the property owned or possessed by the person.

(C) It is unlawful for any person in control of, causing, or permitting any animal to be on any property, public or private, not owned or possessed by the person, to fail to remove feces left by the animal to a proper receptacle located on property owned or possessed by the person. The provisions of this section shall not apply to service dogs or dogs used for police activity.

(D) Any Animal Control Officer or any duly authorized officer or agent authorized by the City Administrator may issue citations.

(Prior Code, § 6-2-24) (Ord. 789, passed 10-10-2022) Penalty, see § 90.999

§ 90.024 DANGEROUS OR POTENTIALLY DANGEROUS DOGS.

(A) Adoption by reference of state law and county ordinance. The provisions of M.S. Ch. 347 (§§ 347.50 through 347.65), as it may be amended from time to time, and county Ord. 10-01, as they may be amended from time to time, are hereby adopted by reference as fully as if set out herein, and shall be administered and enforced by the city's Animal Control Officer and Wright County Sheriff's office and designated pursuant to that law and ordinance.

(B) Conflict of laws. When any provisions of this subchapter, county ordinance, or state laws applicable to dangerous or potentially dangerous dogs are in conflict, the provisions that impose the greater restrictions or protections shall apply.

(Prior Code, § 6-2-25) (Ord. 511, passed 4-12-2010)

§ 90.025 PERMITS FOR COMMERCIAL DOG KENNELS; PERMITS FOR KEEPING MORE THAN THREE DOGS OVER THE AGE OF SIX MONTHS.

(A) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL KENNEL. A place where more than three dogs thereof are kept for the business of selling, boarding for a fee, breeding for sale, or some other enterprise intended primarily for profit-making purposes. The term COMMERCIAL KENNEL shall not include pet stores, pet grooming shops, or animal hospitals.

(B) License required.

(1) No person shall own, harbor, or keep upon a premises more than three dogs over the age of six months unless in a commercial kennel duly licensed under this section.

(2) No person shall keep or maintain a commercial kennel in the city except upon obtaining a permit from the City Council. Commercial kennel licenses shall only be granted in an agricultural zoning district as a conditional use.

(C) Applications. The application shall be made to the City Zoning Administrator and shall contain the following:

(1) The location of the premises of the kennel along with the home and work telephone numbers of the licensee and one other person who could be contacted in the absence of the licensee;

(2) The maximum number and species of adult dogs to be kept on the premises. The term ADULT as used herein shall include any animal over six months of age;

(3) A site plan showing the location, size, and type of all structures for housing, fencing, and runs for dogs. Separate housing and runs for dogs shall be a minimum of 50 feet from any neighboring habitable dwelling and a minimum of ten feet from any property line. If dogs are kept primarily within a building, the applicant shall so state;

(4) Whether the applicant anticipates breeding the animals and, if so, how often and the expected size of the litters;

(5) The method to be used to keep the premises in a sanitary condition;

(6) The method used to keep the animals quiet; and

(7) An agreement by the applicant that the premises may be inspected by the Animal Control Officer at all reasonable times. An inspection of the premises prior to licensing and during the licensing period shall be required.

(D) Issuance and conditions. The City Zoning Administrator shall refer the application to the Animal Control Officer for review and recommendation to the Planning Commission and City Council prior to Council and Planning Commission action. The Planning Commission shall

conduct a public hearing. The issuance of a license shall take into consideration the following: adequacy of housing and runs for the animals; the methods to be used for sanitation and to maintain quiet; the quality and height of the fencing; and, with particularity, any violations during the previous license period, if applicable. The Council and Planning Commission may impose such conditions as it shall deem necessary and appropriate to carry out the intent of this subchapter.

(E) Design.

(1) Kennels or shelter floors and walls shall be constructed of impervious and easily cleanable materials and all structures, areas, and appurtenances so designed as to facilitate frequent and easy cleaning. With regard to private kennels where dogs are kept indoors, this shall apply to the portions of the principal structure to which the dogs are confined, fed, and cleaned.

(2) All areas shall be adequately and properly ventilated and have ample light and heat, either natural or artificial.

(3) Every kennel or shelter shall be suitably enclosed or fenced in such a manner as to prevent the running at large or escape of the animals confined therein. No dogs may be tethered.

(4) Doors, windows, and other openings shall be screened.

(5) The premises shall be provided with adequate, safe, and approved sewer, water, and plumbing facilities.

(6) Enclosure shall be of sufficient size to allow each dog to turn around fully and stand, sit, and lie in a comfortable, normal position. The floors of the enclosure shall be constructed so as to prevent injury to the dog’s legs and feet.

(7) Disposal facilities shall be provided to minimize vermin, infestation, odors, and disease hazards.

(8) Adequate storage and refrigeration shall be provided to protect food supplies against contamination and deterioration.

(F) Operation and conditions. All kennels and shelters shall be maintained in a clean, healthful, sanitary, and safe condition so as not to create a health hazard or public nuisance. Kennels shall be operated in a humane manner.

(G) Revocation. If a license fails to comply with the statements made in the application or with any reasonable conditions imposed by the City Council, or violates any other provision of this subchapter, the licensee shall be notified by mail and given ten days to remedy any defects or defaults. If

the condition be not remedied in the ten days, the Council may revoke the license.

(H) Tags. Licensees shall affix an identification tag to all dogs owned by or under the control of the licensee. The identification tags shall at a minimum contain the name, address, and telephone number of the licensee.

(I) Rabies vaccination. A licensee shall cause every dog in the kennel to be vaccinated by a licensed veterinarian with anti-rabies vaccine. Puppies shall be so vaccinated at or before the age of 16 weeks and again at the age of one year. Adult animals shall be so vaccinated at least once in every 24-month period or as often as needed under the type of vaccine used to ensure immunity.

(J) License fees. The license is non-transferable. The fee for kennel license shall be at a rate as set by the City Council.

(Prior Code, § 6-2-26) (Ord. 169, passed 3-13-1989; Ord. 277, passed 3-25-1996; Ord. 358, passed 1-8-2001; Ord. 494, passed 1-26-2009)

ANIMALS; FOWL

§ 90.040 ANIMALS KEPT WITHIN CITY LIMITS.

(A) No members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry, or fowl (chickens, turkeys, ducks) unless permitted, swine (including Vietnamese pot-bellied pigs), goats, bees unless permitted, and other animals associated with a farm, ranch, or stable shall be kept within the city limits, except in an outlying district where there are not more than three residences, other than that occupied by the owner or occupant of the premises upon which the animals are kept, within a distance of 500 feet of the structure housing or enclosing the animal, unless a special written permit therefor is issued by the Animal Control Officer and the City Clerk after an inspection of the premises and a finding of fact to the effect that no nuisance shall be created thereby. The special permit shall be issued for the keeping of any such animals on any lot only in the following two cases:

(1) Where the animals were being lawfully kept on the lot prior to enactment hereof; and

(2) Where the animals were being lawfully kept on the lot after the enactment hereof in an area in which there were not three residences within a distance of 500 feet of the structure enclosing the animals, and subsequently other residences were built bringing the structure housing the

animals within a restricted district. The permit shall be for the term of one year and shall not be renewed without a re-inspection.

(B) All animals, other than those specifically allowed and permitted by this subchapter, shall be prohibited within the city limits.

(Prior Code, § 6-3-1) Penalty, see § 90.999

§ 90.041 STABLES.

(A) Every stable or other building wherein any animal listed in § 90.040 is kept shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.

(B) Every stable or other building occupied by authority of a special permit shall, if located within 200 feet of any tenement or apartment house, hotel, restaurant, boarding house, retail food store, building used for school, religious, or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which the creatures are kept, be provided with a water-tight and fly-tight receptacle for manure of such dimension as to contain all accumulations of manure, which receptacle shall be emptied sufficiently often and in a manner as to prevent its becoming a nuisance. The receptacle shall be kept securely covered at all times except when open during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate except in the receptacle.

(C) The Animal Control Officer shall, if he or she deems the measures necessary in order to avoid a nuisance, require that any building be screened tightly against flies and/or that it be provided with running water, drain sewer connection, flooring impervious to water, and that other measures be taken as may be necessary to ensure proper protection to public health and safety as conditions precedent to the issuance of any special permit.

(Prior Code, § 6-3-2)

§ 90.042 ANIMALS, FOWL WITHIN CITY LIMITS; PERMITS.

(A) No person shall anywhere in the city keep, harbor, or maintain care, custody, or control over any small animal such as a rabbit or any fowl, such as a chicken, turkey, or duck, or any pigeon, without obtaining a permit therefor issued by the Animal Control Officer and the City Clerk.

(B) The Animal Control Officer and the City Clerk may grant any permit pursuant to this section after the applicant has sought the written consent of the property owners adjoining the applicant’s real estate. The written

consent shall be required on the first and initial application and as often thereafter as the Animal Control Officer deems necessary.

(C) Roosters are prohibited within the city.

(D) No permit shall be issued for more than six hen fowl.

(E) No permit shall be granted to keep any animal, fowl, or pigeon within a dwelling unit or part thereof, nor on any real estate which contains three or more dwelling units.

(F) This section shall not apply to dogs or cats or to veterinarians or licensed pet shops or licensed kennels.

(Prior Code, § 6-3-3) (Ord. 615, passed 4-27-2015) Penalty, see § 90.999

§ 90.043 APPLICATION FOR PERMIT.

Any person desiring a permit under this chapter shall make written application therefor to the City Clerk upon a form prepared by the City Clerk, which application shall describe the real estate upon which it is desired to keep the animals and shall require the giving of such information by the applicant as the city may request. The application shall contain a statement by the applicant that he or she will at all times keep the animals in accordance with all conditions prescribed by the Animal Control Officer, and failure to obey the conditions shall be a violation of this chapter and shall be cause for cancellation of the permit by the Animal Control Officer and the City Clerk.

(Prior Code, § 6-3-4)

§ 90.044 DURATION OF PERMIT; FEE.

(A) Each permit issued hereunder shall expire one year after the issuance unless revoked.

(B) The annual fee for a permit shall be as stated in the fee schedule, which shall be paid at the time the application is submitted.

(Prior Code, § 6-3-5)

§ 90.045 CONDITIONS FOR KEEPING ANIMALS; REVOCATION.

The Animal Control Officer may prescribe general conditions for the keeping of animals or fowl and specific conditions as to a particular animal or fowl or particular premises as in his or her judgment is necessary to

safeguard public health and the general welfare. The Animal Control Officer may revoke any permit granted pursuant to this chapter if any condition is violated or if any pet becomes a public nuisance.

(Prior Code, § 6-3-6)

§ 90.046 REFUSAL TO GRANT PERMIT.

The Animal Control Officer and City Clerk may refuse a permit to keep or maintain animals or fowl hereunder for failure to comply with the provisions of this chapter and shall refuse a permit if in his or her judgment the animals or fowl should not be kept upon the premises described in the application for permit. If any permit be refused, the fee paid with the application shall be retained by the city to pay its expenses in the investigation and consideration thereof.

(Prior Code, § 6-3-7)

§ 90.047 PENS; YARDS.

All structures, pens, coops, or yards wherein animals or fowl are kept or permitted to be shall be maintained in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odors. The interior walls, ceilings, floors, partitions, and appurtenances of all the structures shall be whitewashed or painted as the Animal Control Officer shall direct. The Animal Control Officer, upon the complaint of any individual, shall inspect any structure or premises and issue any order as may be necessary to carry out the provisions hereof.

(Prior Code, § 6-3-8)

§ 90.048 ANIMALS, FOWL AT LARGE.

No person shall permit any horses, mules, donkeys, ponies, cattle, sheep, goats, swine, rabbits, chickens, geese, ducks, or turkeys of which he or she is the owner, caretaker, or custodian to be at large within the city. Any creature shall be deemed to be AT LARGE when it shall be off the premises owned or rented by its owner and unaccompanied by the owner or an agent or employee of the owner.

(Prior Code, § 6-3-9) Penalty, see § 90.999

§ 90.049 MANURE.

No manure shall be dumped or left on any street, alley, sidewalk, or on any open area or lot in any inhabited portion of the city. Manure shall not be used to grade in whole or in part any sidewalk, street, open area, or lot in the section unless the manure is completely covered with at least four inches of dirt.

(Prior Code, § 6-3-10) (Ord. 170, passed 3-13-1989; Ord. 557, passed 4-9-2012) Penalty, see § 90.999

BEEKEEPING

§ 90.060 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APIARY. The assembly of one or more colonies of bees on a single lot.

BEEKEEPER. A person who owns or has charge of one or more colonies of honey bees or a person who owns or controls a lot on which a colony is located whether or not the person is intentionally keeping honey bees.

BEEKEEPING EQUIPMENT. Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY. An aggregate of honey bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

FLYWAY BARRIER. A barrier that raises the flight path of bees as they come and go from a hive.

HIVE. The receptacle inhabited by a colony.

HONEY BEE. All life stages of the common domestic HONEY BEE. This definition does not include wasps, hornets, African subspecies, or Africanized hybrids.

NUCLEUS COLONY. A small quantity of honey bees with a queen housed in a smaller than usual hive box designed for a particular purpose, and containing no supers.

SUPER. A box that holds the frames where bees will store the honey.

SWARMING. The process where a queen bee leaves a colony with a large group of worker bees in order to form a new honey bee colony.

UNUSUAL AGGRESSIVE BEHAVIOR. Any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs.

(Prior Code, § 6-8-1) (Ord. 634, passed 4-11-2016)

§ 90.061 PURPOSE.

(A) Honey bees are an asset to the community and important in the pollination of plants and in the production of honey and other products.

(B) The purpose and intent of this subchapter it to permit and establish requirements for the keeping of honey bee colonies, hives, and equipment within the city.

(Prior Code, § 6-8-2) (Ord. 634, passed 4-11-2016)

§ 90.062 COLONY LOCATION.

(A) Hives cannot be located in the front yard and must be located a minimum of ten feet from the rear or side property lines and 25 feet from public rights-of-way unless further restricted elsewhere in this code. A corner lot shall be considered to have two front yards. Hive openings shall face in toward subject property’s backyard.

(B) Honey bee colonies shall be kept in removable frames, which shall be kept in sound and usable condition.

(C) For each colony permitted to be maintained under this section, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard nine and five- eighths-inch depth, ten-frame hive body with no supers.

(D) A flyway barrier at least six feet in height shall shield any part of a property line that is within 30 feet of a ground hive. The flyway barrier shall consist of a wall, fence, dense vegetation, or a combination thereof, and it shall be positioned to transect both legs of a triangle extending from an apex at the hive to each end point of the part of the property line to be shielded.

(E) Rooftop apiaries are allowed but shall not be located closer than 15 feet from a principal building on an abutting lot.

(Prior Code, § 6-8-3) (Ord. 634, passed 4-11-2016)

§ 90.063 COLONY DENSITY.

(A) Every lot or parcel of land in the city shall be limited to the following number of colonies based on the size of the apiary lot:

(1) One-half acre or smaller is allowed two colonies;

(2) More than one-half acres to three-quarters of an acre is allowed four colonies;

(3) More than three-quarters of an acre to one acre is allowed six colonies;

(4) More than one acre to five acres is allowed eight colonies; and

(5) More than five acres, there is no restriction on the number of colonies and no registration is required.

(B) If any beekeeper removes honey bees from locations where they are not desired, that person shall not be considered in violation if the person temporarily houses the honey bees on the apiary site of a beekeeper registered under this section for no more than 30 days and remains at all times in compliance with the other provisions in this section.

(Prior Code, § 6-8-4) (Ord. 634, passed 4-11-2016)

§ 90.064 REQUIRED CONDITIONS.

(A) Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and useable condition.

(B) A constant supply of water shall be provided for all hives, except during the dormant period.

(C) Materials from a hive or colony which might encourage the presence of honey bees, such as wax comb, shall be promptly disposed of in a sealed container or placed within a building or other bee-proof enclosure.

(D) Beekeeping equipment shall be maintained in good condition. Unused beekeeping equipment must be protected to prevent occupancy by swarming honey bees.

(E) Hives shall be continuously managed to provide adequate living space for their resident honey bees in order to prevent swarming.

(F) In any instance in which a colony exhibits unusual aggressive behavior, it shall be the duty of the beekeeper to promptly implement appropriate actions to address the behavior.

(G) Honey may not be sold from any residential property unless a permit has been obtained and required conditions met in accordance with the city’s zoning code.

(Prior Code, § 6-8-5) (Ord. 634, passed 4-11-2016)

§ 90.065 REGISTRATION.

(A) Residents seeking approval to keep and raise honey bees shall submit an application, application fee, and site plan. Registration is not required for sites over five acres in size.

(B) If the beekeeper relocates a hive or colony to a new apiary site, the beekeeper shall apply for an updated registration, prior to the relocation, on the form provided by the city.

(C) The beekeeping registration shall be valid January 1 through December 31 of each calendar year following initial issuance and must be renewed by the registrant prior to expiration each year by submitting a renewal form to the City Clerk.

(D) The applicant for the license must notify all residents of the property if the applicant is not the owner or operator and the owner or operator must be an additional signatory on the license application. Notification is not required for renewal of the license.

(E) (1) Upon receipt of application, the city will send written notice to property owners living within 200 feet of applicant.

(2) Any objections to the registration must be made in writing and received within ten days.

(3) If any written objection is received, the application must be referred to the City Administrator.

(4) The application must be denied if the city receives a written objection from an adjacent property owner that includes medical documentation by a licensed physician of an allergy to honey bee venom.

(F) Applicants for a beekeeping license shall provide proof of applicable training or provide a waiver indicating how required experience has been obtained.

(G) The fees for the registration will be determined by the City Council in the city’s fee schedule.

(Prior Code, § 6-8-6) (Ord. 634, passed 4-11-2016)

Cross-reference:

Fees, see Chapter 36

§ 90.066 INSPECTIONS.

(A) Upon initial registration, annual renewal, or any updated registration, each beekeeper must allow for an inspection by the Animal Control Officer of the site.

(B) Upon prior notice to the owner of the apiary site, city staff or Animal Control Officer shall have the right to inspect any apiary, in accordance with § 10.20.

(C) In the case of a complaint regarding the apiary, the apiary site may be inspected without prior notice.

(D) The Animal Control Officer or designated city staff may refuse to grant or revoke a license if the honey bees become a nuisance as determined by the city or the Animal Control Officer.

(Prior Code, § 6-8-7) (Ord. 634, passed 4-11-2016)

§ 90.067 APPEAL AND HEARING PROCEDURE.

(A) Registrations issued under this section may be denied, revoked, or non-renewed due to any of the following:

(1) The keeping of honey bees in a manner which constitutes a nuisance to the health, safety, or general welfare of the public as determined by the Animal Control Officer;

(2) Fraud, misrepresentation, or a false statement contained in the registration application or during the course of the registered activity; and/or

(3) Any violation of the applicable provisions in this subchapter.

(B) (1) Notice of approval, denial, revocation, or non-renewal must be made in writing to the registrant and to any person opposing the application for initial registration specifying the reason(s) for the action.

(2) The registrant or any person opposing the application may request a hearing with the City Council within 14 days of the date of the notification letter.

(Prior Code, § 6-8-8) (Ord. 634, passed 4-11-2016)

TRAPPING

§ 90.080 PURPOSE.

It is the purpose of this subchapter to preclude the potential harm that may be inflicted upon people, particularly children, and to prevent the maiming, unselective catching, and destruction of wild animals and birds and domestic animals that come in contact with traps.

(Prior Code, § 7-8-1)

§ 90.081 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TRAP. Any mechanical device or snare which seeks to hold, capture, or kill an animal.

TRAPPING. The setting or laying or otherwise using of a trap in the platted residential areas and parks of the city.

(Prior Code, § 7-8-2)

§ 90.082 VIOLATIONS.

Trapping in all areas within the city, including parks areas, is prohibited.

(Prior Code, § 7-8-3) Penalty, see § 90.999

§ 90.083 EXCEPTIONS.

(A) The provisions of this subchapter do not apply to the use of any trap specifically designed to kill rats, mice, gophers, or moles.

(B) The provisions of this subchapter do not apply to the use of cage type live traps employed for the control of nuisance animals as long as the traps are tended each 12 hours.

(C) The provisions of this subchapter do not apply to representatives of the city, county, or state who may, in the course of their duties, be required to use a trap to trap, snare, kill, or otherwise restrain the free movement of any wildlife, animal, or bird for humane or authorized purposes.

(D) The provisions of this subchapter do not apply to teachers trapping for educational programs or scientists for the purpose of studying animals, wildlife, or birds which will be returned to their natural environment uninjured.

(Prior Code, § 7-8-5) (Ord. 204, passed 2-11-1991)

§ 90.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Whoever violates § 90.017 shall be guilty of a misdemeanor.

(C) Any person who violates § 90.024, a county ordinance, or state law applicable to dangerous and potentially dangerous dogs shall be guilty of a misdemeanor.

(Prior Code, § 6-2-25)

(D) Any person who maintains a kennel without first obtaining a license therefor in violation of § 90.025 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 6-2-26)

(E) Any person violating any provision of §§ 90.080 through 90.083 is guilty of a misdemeanor and, upon conviction, shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 7-8-4)

(Ord. 358, passed 1-8-2001; Ord. 511, passed 4-12-2010)

CHAPTER 91: NUISANCES

Section

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PUBLIC NUISANCES

§ 91.01 GENERAL POLICY.

It is determined that the uses, structures, activities, and factors described with this subchapter, if allowed to exist, will tend to be harmful to the public welfare, safety, and morals. No person shall maintain or permit to be maintained any public nuisance identified within this subchapter on property in the city that is owned, leased, rented, occupied, or otherwise in the control of the person.

(Prior Code, § 7-1-1)

§ 91.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Where terms are not defined this subchapter but are defined in the International Property Maintenance Code (IPMC) or elsewhere in the city code, the terms shall have the meanings ascribed to them as stated in those codes.

PREMISES. Include any yard, lot, parcel, sidewalk, boulevard, street, highway, alley, park, playground, restaurant, café, church, school, any car or other motor vehicle, parking lot, drive-in, building used for business, commercial, or industrial purposes, washroom or lavatory, apartment hallway, or other location whether public or private in the city.

PUBLIC NUISANCE. Whoever by act or failure to act does any of the following is guilty of maintaining a PUBLIC NUISANCE:

(1) Annoy, injure, or endanger the safety, health, comfort, or repose of the public;

(2) Offend public decency;

(3) Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage, a lake, navigable river, bay, stream, basin, public park, square, street, alley, or highway; and

(4) In any way render a considerable number of persons insecure in life or in use of property.

(Prior Code, § 7-1-2)

§ 91.03 NUISANCES UNLAWFUL.

It shall be unlawful for any person, firm, corporation, or association to maintain any public nuisance defined in this subchapter and it shall further be unlawful to do any act that is defined as a public nuisance in this subchapter.

(Prior Code, § 7-1-3) Penalty, see § 91.99

§ 91.04 PUBLIC NUISANCE.

(A) Misdemeanors. The following nuisances are declared to be misdemeanors:

(1) Unwholesome substance that is brought in, deposited, left, dumped, or allowed to accumulate within the city;

(2) Junk vehicles: a JUNK VEHICLE is a vehicle without a valid current license, or without a valid current registration (if applicable), or which is apparently inoperable located outside an enclosed building in a residential area including, but not limited to, automobiles, trucks, motorcycles, snowmobiles, trailers, all-terrain vehicles, and watercraft;

(3) Pest harborage:

(a) All exterior property shall be free from rodent harborage and infestation;

(b) Boxes, lumber, scrap metal, and similar materials shall not be allowed to accumulate outside a structure in a manner that attracts an infestation of pests; and

(c) Materials permitted and approved for exterior storage shall be neatly stacked.

(4) Garbage and rubbish:

(a) All household garbage, offal, dead animals, animal and human waste, and waste materials;

(b) Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, plastic bags, or trash; and

(c) Accumulations of clothing and any other items not designed for outdoor storage.

(5) Non-trash items;

(a) Accumulations of wood pallets;

(b) Accumulations of vehicle parts or tires;

(c) All construction and building materials unless the materials are being used at the time in the construction of a building, in which case the construction must be permitted and on a continuous uninterrupted basis;

(d) All appliance or appliance parts;

(e) All indoor or upholstered furniture of a type of material which is deteriorated by exposure to outdoor elements; and

(f) All other non-trash items which:

1. Are of a type or quantity inconsistent with the normal and usual use;

2. Are of a type or quantity inconsistent with then intended use of the property; or

3. Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

(6) Fertilizer and burial of waste:

(a) No person shall leave, deposit, or cause to be placed on any private ground any garbage; and

(b) Sewage, waste, debris, carcass, or other substance or matter which is offensive or unhealthy by decomposition unless the same be buried at least three feet under the surface of the ground; provided, that the use of manure and phosphorous fee fertilizer in the normal course for agriculture or horticulture is permitted.

(7) Engaging within the city in any trade or employment which is hurtful to the inhabitants or dangerous to the public health, or injurious to neighboring property, or from which obnoxious odors arise, or undue noise emanates, and specifically no person shall operate a dump or garbage

dumping area or rendering plant except the specific activity be authorized by the issuance of a permit as hereinafter provided;

(8) Causing or permitting garbage, tin cans, or refuse to be thrown or scattered upon any street, alley, highway, parkway, boulevard, or real estate;

(9) Causing or permitting detached structures not requiring a building permit that do not conform to the following requirements:

(a) All such detached structures shall be constructed of uniform building grade material;

(b) All sides, roof, and floor shall be securely fastened to the interior frame of the detached structure;

(c) All surfaces of the detached structures shall be stained, sealed, or painted;

(d) Exterior metal surfaces shall be treated with materials designed to resist corrosion;

(e) Structures that do not have slab floors shall have a rodent barrier that extends eight inches under the surface of the ground along the perimeter of the outside wall of the structure;

(f) All the detached structures shall be permanently anchored to the ground;

(g) Storage sheds erected after the adoption of the zoning ordinance shall meet district setback requirements; and

(h) Detached structures shall be erected in the side or rear yard of any residence.

(10) Consumption of beer, wine, or liquor in public except as provided by law;

(11) Strewing, scattering, littering, throwing, or disposing of any garbage or refuse onto any premises except into receptacles provided for such purposes;

(12) Marking with ink, paint, chalk, or other substance, or posting handbills on, or in any other manner defacing or injuring any public or private building or place within the city, or marking, defacing, or injuring fences, trees, lawns, or fixtures appurtenant to or located on the site of the buildings, or posting handbills on the fences, trees, or fixtures, or place a sign anywhere on any site except as permitted by the owner thereof;

(13) Lingering about the doorway of any building, or sitting or lingering upon the steps, window sills, railing, fence, or parking area

adjacent to any building in a manner as to obstruct or partially obstruct ingress to or egress from the building or in a manner to annoy the owner or occupant;

(14) Obstructing pedestrian or vehicular traffic or otherwise causing an obstruction or interference with premises or rendering any premise dangerous for passage except in cases of emergency;

(15) Failing or refusing to vacate or leave any premises after being requested or ordered, either orally, in writing, or by posted sign, to do so by the owner, agent, manager, or person in charge thereof, or by any law enforcement agent or official, and also the return at any time thereafter to any such premises after having been so requested or ordered to vacate or leave the premises;

(16) Maintaining nuisance vegetation as follows:

(a) In any area the existence of any noxious or poisonous vegetation such as poison ragweed or other poisonous plants, or any weed, grass, brush, or plants which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood;

(b) In any area within 100 feet of the nearest building, the existence of weeds or grass in excess of eight inches in height or any accumulation of dead weeds, grass, or brush; or

(c) In any area on an occupied lot, the existence of weeds or grass in excess of eight inches in height or any accumulation of dead weeds, grass, or brush.

(17) All other conditions or things that are likely to cause injury to the person or property of anyone; and

(18) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities.

(B) Petty misdemeanors. The following nuisances are declared to be petty misdemeanors:

(1) Racing the motor of any motor vehicle so as to cause unnecessary and unreasonable noise;

(2) Causing, producing, or creating any unnecessary and unreasonable notice by shouting, mechanical means, the blowing of motor vehicle horns, or any similar noise;

(3) Improper or annoying use of spot lights onto persons or premises;

(4) Using profane, abusive, indecent, or threatening language in public; and

(5) Occupying a standing motor vehicle in an area generally reserved for parking or occupies a standing motor vehicle while the vehicle is double parked.

(Prior Code, § 7-1-4) (Ord. 602, passed 10-13-2014)

§ 91.05 EXCEPTION.

The provisions of this subchapter do not apply to the hauling or accumulation or spreading of manure for the purposes of agriculture provided the public health, safety, and welfare is not adversely affected thereby.

(Prior Code, § 7-1-5)

§ 91.06 ABATEMENT.

(A) Notice. Whenever the officer who is charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify the owner and occupant of the premises of the fact and order that the nuisance be terminated and abated. The owner of the property will be determined as shown by the records of the office of the County Recorder. The notice shall be served in person or by regular mail. If the premises is not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding five business days for any grass or weed nuisance and not exceeding 20 days for all other nuisances, to either correct the violation or appeal to the City Council for a determination that the complained of activity does not violate the subchapter.

(B) Accelerated abatement. For second or successive violations concerning grass, weeds, and other vegetation in a calendar year, the city will, without additional notice, correct the conditions creating the violations and assess the cost therefor against the property.

(C) Recovery of cost. The owner of the premise on which a nuisance has been abated by the city shall be personally liable for the city’s cost of abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable to the city.

(D) Assessment. If the nuisance is a public health or safety hazard on private property, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City

Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

(Prior Code, § 7-1-6) (Ord. 602, passed 10-13-2014)

DISPOSAL OF UNCLAIMED PROPERTY

§ 91.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE. Every vehicle which is self-propelled.

NET PROCEEDS. The sale price of any item of property or of a motor vehicle, less any costs of handling, storage, and sale.

PROPERTY. All forms of tangible personal property.

(Prior Code, § 6-6-1)

§ 91.21 DISPOSAL OF PROPERTY OTHER THAN MOTOR VEHICLES.

Property lawfully coming into the possession of the city and its duly designated agent in the course of its municipal operation and remaining unclaimed by the owner thereof for at least three months thereafter may be sold by the city to the highest bidder at public auction or sale following one week published notice thereof.

(Prior Code, § 6-6-2)

§ 91.22 DISPOSAL OF MOTOR VEHICLES.

(A) Motor vehicles impounded by the city and its duly designated agents or otherwise lawfully coming into its possession during the course of its municipal operations and remaining unclaimed by the owner thereof may be

sold by the city to the highest bidder at public auction or sale following one week published notice thereof.

(B) Prior to the disposal of any motor vehicle, the city shall mail to the registered owner, if any, as shown by the records of the state's Registrar of Motor Vehicles, notice of its possession and intent to dispose of the motor vehicle.

(C) No sale of a motor vehicle shall be conducted until the motor vehicle has been in possession of the city for a period of not less than 30 days after the mailing of notice to the registered owner, if any, as provided herein.

(Prior Code, § 6-6-3)

§ 91.23 DEPOSIT OF NET PROCEEDS.

The net proceeds of the sale of any property or of a motor vehicle, whether by public auction or sale, shall be deposited in the General Fund of the city, subject to the right of the former owner of the property or of the motor vehicle to the payment of the net sale proceeds from the General Fund upon application and satisfactory proof of ownership within six months of the sale.

(Prior Code, § 6-6-4)

AIR QUALITY

§ 91.35 ADOPTION OF STANDARDS AND REGULATIONS.

(A) The Ambient Air Quality Standards and Air Pollution Control Regulations, as published by the state's Pollution Control Agency and in effect this date, be and the same hereby are adopted by reference by the city.

(B) Three copies of the regulations shall be marked as official copies and filed for use and examination by the public in the office of the City Clerk.

(Prior Code, § 7-5-1)

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Violation of §§ 91.01 through 91.06 shall have the penalties provided in § 10.99.

(2) The imposition of one penalty for any violation of §§ 91.01 through 91.06 shall not excuse the violation or permit it to continue.

(3) Each ten days that prohibited conditions are maintained shall constitute a separate offense.

(Prior Code, § 7-1-7) (Ord. 496, passed 3-23-2009)

CHAPTER 92: PROPERTY MAINTENANCE

Section

Prohibiting Fertilizers with Phosphorus

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PROHIBITING FERTILIZERS WITH PHOSPHORUS

§ 92.01 PURPOSE.

The city has considered data that indicates that water quality of lakes, rivers, and streams within the community may be maintained or improved if the city is able to regulate the amount of lawn fertilizer and other chemicals entering these bodies of water as a result of stormwater runoff or other causes. The purpose of this subchapter is to set forth regulations that will aid the city in managing and protecting its water resources.

(Prior Code, § 7-9-1)

§ 92.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATOR. The individual responsible for overseeing the requirements of the city code. For purposes of this subchapter, the ADMINISTRATOR shall be the Director of Public Works or his or her designee.

FERTILIZER. A substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. FERTILIZER does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the state’s Commissioner of Agriculture.

PESTICIDE. A substance or mixture of substances intended to prevent, destroy, repel, or mitigate a pest, and a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(Prior Code, § 7-9-2)

§ 92.03 REGULATIONS.

(A) Time of application. Neither commercial applicators nor noncommercial applicators may apply lawn fertilizer when the ground is frozen or when conditions exist which will promote or create runoff.

(B) Sample analysis cost. The cost of analyzing fertilizer samples taken from commercial applicators shall be paid by the commercial applicators if the sample analysis indicates that phosphorus content exceeds the levels authorized herein.

(C) Fertilizer content. No person shall apply any lawn fertilizer, liquid or granular, within the city which contains any amount of phosphorus or other compound containing phosphorus, such as phosphate, except:

(1) The naturally occurring phosphorous in unadulterated natural or organic fertilizing products such as yard waste compost; or

(2) As otherwise provided in § 92.04.

(Prior Code, § 7-9-3) Penalty, see § 92.99

§ 92.04 EXCEPTIONS.

(A) The prohibition against use of fertilizer containing any quantity of phosphorus set forth under § 92.03 shall not apply to:

(1) Newly established turf and lawn areas during first growing season; or

(2) Turf and lawn areas which have been confirmed by soil testing to be below phosphorus levels established by the University of Minnesota Extension Services. The lawn fertilizer application shall not contain an amount of phosphorus in excess of that which is recommended in the soil test evaluation.

(B) Phosphorus applied as lawn fertilizer pursuant to the aforementioned exemptions shall be watered into the soil so that it is immobilized and protected from loss by runoff.

(Prior Code, § 7-9-4)

§ 92.05 IMPERVIOUS SURFACES AND DRAINAGE WAYS.

No person shall apply fertilizer to impervious surfaces, areas within drainage ditches, or waterways.

(Prior Code, § 7-9-5) Penalty, see § 92.99

SIDEWALK REPAIR, MAINTENANCE, AND SPECIAL ASSESSMENTS

§ 92.20 MAINTENANCE BY OWNER.

Pursuant to M.S. Ch. 429, as it may be amended from time to time, the primary responsibility for keeping and maintaining the public sidewalk of the city in front of each parcel of land abutting thereon clean and in such state of repair as not to be dangerous to public travel is hereby imposed upon the owner of each abutting parcel of land.

(Prior Code, § 8-1-1)

§ 92.21 INSPECTION.

The Public Works Director shall inspect the public sidewalks within the city or cause the same to be inspected by some competent person under his or her supervision and direction at least once in each year and shall, from time to time, report in writing to the City Council any sidewalks believed by him or her to be in such disrepair as to be dangerous to the public travel thereon, giving therein the information as to enable the locating of each alleged defective sidewalk.

(Prior Code, § 8-1-2)

§ 92.22 NOTICE OF HEARING.

Upon receipt of the report, the City Council shall, by resolution, set a date for a public hearing on the report and cause at least two weeks' written notice of the hearing to be given by mail, addressed to the owner of each parcel of land abutting upon the portion of any sidewalk alleged in the report to be in such disrepair as to be dangerous to public travel thereon, the notice to be addressed to the owner at the address shown on the last general assessment roll of city real estate.

(Prior Code, § 8-1-3)

§ 92.23 NOTICE TO REPAIR.

(A) If the City Council shall find upon the hearing or any adjournment thereof that the sidewalks embraced within the report, or any of them, are in such disrepair as to be dangerous to the public travel thereon, it shall direct the Public Works Director to send or cause to be sent a written notice of the defect to the owner of each parcel of land abutting upon any defective sidewalk, directing him or her to cause the sidewalk in front of his or her parcel of land to be repaired at his or her own cost and expense in the manner recommended by the Public Works Director within 30 days from the date of the notice.

(B) The notice shall further state that if the sidewalk is not so repaired by him or her, the city will proceed to make the repairs and assess the cost thereof against the abutting parcels of land. For good reason shown, the Public Works Director is authorized to extend the time given to any owner with which to make the repairs.

(Prior Code, § 8-1-4)

§ 92.24 CITY TO MAKE REPAIRS.

(A) If any repair is not made by the owner of the abutting parcel of land within the time and in the manner specified in the notice to him or her or any extension thereof granted by the Public Works Director, the city may then proceed to make the repair under contract or by its employees under the supervision and direction of the Public Works Director or of some competent person in his or her office assigned thereto.

(B) Careful and adequate records of the cost of each repair shall be maintained showing the cost in time employed and of materials used in effecting the repair.

(Prior Code, § 8-1-5)

§ 92.25 ASSESS COST.

After any repair or any group of repairs to be made by the city has been completed, the Public Works Director shall certify to the City Council the total cost thereof, and thereupon the Council shall determine by resolution the amount of the total cost the city will pay, if any, other than the amount, if any, which it will pay as a property owner and the amount to be assessed. The resolution shall then be filed with the City Clerk. The City Clerk, with the assistance of the Public Works Director or other qualified person

selected by the Council, shall calculate the proper amount to be assessed against each abutting parcel of land in front of which any of such repairs have been made by the city on the basis of the cost thereof and shall prepare a proposed assessment roll and deliver it to the Council.

(Prior Code, § 8-1-6)

§ 92.26 HEARING ON ASSESSMENT.

Upon receipt by the City Council of the proposed assessment roll, it shall, by resolution, set a date for a public hearing thereon and file the proposed assessment roll with the City Clerk where it shall be open to public inspection. Thereupon the City Clerk, under the direction of the Council, shall cause to be published once in the legal newspaper of the city a notice of the public hearing giving the date, time, and place thereof, stating the general nature of the improvement and that written or oral objections to the assessments will be considered at the hearing. The notice shall be published at least one week before the date of the hearing.

(Prior Code, § 8-1-7)

§ 92.27 ASSESSMENT ROLL.

(A) At the meeting or any adjournment thereof, the City Council shall consider the objections made, if any, to the proposed assessments, may amend the proposed assessment roll in respect to a particular parcel of land but shall not increase the assessment, and may then adopt by resolution the proposed assessment roll as made or as amended.

(B) Upon the adoption, the assessment roll shall be filed with the City Clerk, and upon the filing the amount assessed thereby against the respective parcels of land included therein, together with accrued interest at such rate per annum as the City Council may from time to time fix by resolution, shall become a lien thereon and continue until the assessment is fully paid.

(Prior Code, § 8-1-8)

§ 92.28 APPEAL FROM ASSESSMENT.

(A) Any person being aggrieved by any assessment may appeal therefrom to the District Court of the county wherein the property is located by serving upon the City Clerk, within ten days after the filing of the assessment roll in the Administrator’s office, a notice of appeal stating the

grounds of the appeal and giving a bond for $250 conditioned that he or she will diligently prosecute the appeal, pay all costs and disbursements which may be adjudged against him or her, and abide by the order of the court, and by filing a copy of the notice with proof of service thereof on the City Clerk with the court within two days after the service upon the City Clerk.

(B) (1) The appeal shall be placed upon the calendar for the next general term of the court commencing more than ten days after the filing of the copy of the notice with the court, and the appeal shall be tried as other appeals in such cases.

(2) Upon an appeal being perfected, the City Clerk shall omit the parcel in respect of which the appeal is taken from the duplicate assessment roll to be certified to the County Auditor, as provided in § 92.29, until the appeal is disposed of by the court.

(Prior Code, § 8-1-9)

§ 92.29 CERTIFICATION TO COUNTY AUDITOR.

On or before November 30, the City Clerk shall transmit a certified duplicate of the assessment roll so adopted to the County Auditor of the county in which any parcel of land subject to the lien is situated, setting forth the amount of the assessment, together with interest computed to the first Monday in January of the succeeding calendar year.

(Prior Code, § 8-1-10)

§ 92.30 TIME OF SNOW REMOVAL AND ICE CONTROL.

The owner or occupant of every building or tract of land within the city fronting upon any street having a sidewalk abutting upon such premises shall clear the sidewalk of snow within 48 hours following the termination of any snowfall of two inches or more or control the formation of ice from any cause. If the snow is not removed or ice is not controlled by the owner or occupant within the time specified herein, the same shall be removed or controlled under the direction of the Public Works Director and the city shall be reimbursed for the expense of the removal by the property owner within 30 days per the current city fee schedule. If payment is not received by the due date, the costs shall be levied against the property owner as a special assessment and collected as in the case of other special assessments.

(Prior Code, § 8-1-11) (Ord. 153, passed 4-13-1987; Ord. 492, passed 1-12-2009; Ord. 507, passed 1-11-2010)

TREES AND SHRUBS

§ 92.45 PURPOSE.

It is the purpose of this subchapter to protect and promote the public health, safety, and general welfare of the people of the city by regulating the planting and maintenance of trees in order to protect trees and to prevent and abate hazardous and nuisance conditions within the city.

(Prior Code, § 8-3-1)

§ 92.46 PROHIBITED TREES.

It is lawful to plant only highly disease resistant species within the city limits with the approval of the City Forester.

(Prior Code, § 8-3-2) (Ord. 29, passed 5-9-1977; Ord. 495, passed 1-26-2009; Ord. 661, passed 2-13-2017) Penalty, see § 92.99

§ 92.47 ORDER TO TREAT OR REMOVE.

The city may order the trimming, treatment, or removal of trees or plants upon public or private property when they shall determine that the action is necessary to the public safety or necessary to prevent the spread of disease or of insects harmful to trees and shrubs.

(Prior Code, § 8-3-3)

§ 92.48 REGULATIONS FOR PLANTING IN PUBLIC PLACES.

(A) Approval required. No tree shall be planted or placed on public property or right-of-way without the approval of the City Forester.

(B) Permits.

(1) No person shall plant or remove trees or shrubs in public places without first filling out an application and obtaining a permit from the city.

(2) The following provisions apply to the issuance of permits where required for planting in public places.

(a) Application data. The application required herein shall state the number of trees or plants to be planted or set out, the location, and specific name of each tree or plant.

(b) Standards for issuance. A permit shall be issued if it is found that the proposed plantings will be in the best interest of the community.

(Prior Code, § 8-3-4) (Ord. 661, passed 2-13-2017) Penalty, see § 92.99

§ 92.49 REQUIREMENTS APPLICABLE TO TREES IN NEW SUBDIVISIONS.

(A) In new subdivisions, on lots with frontage on a single right-of-way, it is required that two trees be planted per platted lot if no trees are in existence. For lots with frontage on more than one right-of-way, it is required that four trees be planted per platted lot if no trees are in existence. Two trees must be planted in the boulevard adjoining each yard having street frontage.

(B) In subdivision plantings, not less than two or more than three species of trees shall be planted in any block, and neither less than 20% nor more than 50% of the total trees planted in a block may be of the same species. Only trees listed in § 92.46 shall be planted.

(C) Required trees shall be planted in the boulevard at a location ranging from four feet to ten feet from the curb. Precise location within this range to be determined by the city.

(D) Required subdivision trees must have a trunk diameter of at least two inches at one foot above the ground.

(E) Required subdivision trees must be protected and supported by tree guards of approved type.

(F) No required subdivision tree shall be planted in soil too poor to ensure the growth of the tree unless 27 cubic feet (three feet x three feet x three feet) of soil is removed and replaced with suitable loam.

(Prior Code, § 8-3-5) (Ord. 267, passed 3-27-1995; Ord. 287, passed 3-24-1997)

§ 92.50 SHADE TREE DISEASE AND INSECT CONTROL.

(A) Forester duties. The powers and duties of the City Forester as set forth in this code are hereby conferred upon the Park Superintendent. It is the duty of the Forester to coordinate, under the direction and control of the City Council, all activities of the municipality relating to the control and prevention of shade tree disease. The City Forester shall recommend to the

Council the details of a program for the control of shade tree disease and perform the duties incident to such a program adopted by the Council.

(B) Program. It is the intention of the City Council to conduct a program of plant pest control pursuant to the authority granted by M.S. § 18G13, as it may be amended from time to time. This program is directed specifically at the control and elimination of Dutch elm disease fungus, elm bark beetles, oak wilt, emerald ash borer and other tree diseases; and is undertaken at the recommendation of the Commissioner of Agriculture and the Council in the conduct of this program.

(C) Nuisance declared. The prevention, control, and abatement of Dutch elm disease, oak wilt disease, emerald ash borer, and other tree diseases is necessary for the protection, preservation, and conservation of public and private lands and the investment and benefit therein, and to protect and promote the general welfare of the public and this community. Therefore, the following conditions are hereby found and declared to be a public nuisance wherever they exist in the city:

(1) Any living or dead elm tree or part thereof infected to any degree with the Dutch elm disease fungus Certatocystits ulmi (Buisman) Moreau or which harbors any of the elm bark beetles Scolytus multistriatus (Eichhh) or Hylugropinus rufipes (Marsh);

(2) Any dead elm tree or part thereof, including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed or burned;

(3) Any living or dead oak tree or part thereof infected to any degree with the oak wilt fungus (Ceratocytis fagacearum); and/or

(4) Any living or dead fraxinus spp tree or part thereof infected to any degree with the insect emerald ash borer (Agrilus planipennix) or any other tree species infected with a disease.

(D) Prohibition. It is unlawful for any person to permit any public nuisance as defined in divisions (C)(1) through (C)(4) above to remain on any premises owned or controlled by such person within the city. The nuisances may be abated in the manner prescribed by this subchapter.

(E) Inspection and investigation.

(1) The Forester shall inspect all premises and places within the city as often as practicable to determine whether any condition declared in division (C) above to be a public nuisance exists thereon.

(2) All reported incidents of infestation of Dutch elm fungus, the presence of elm bark beetles, of infection by the oak wilt fungus or the

presence of emerald ash borer, or other tree infestations shall be promptly investigated.

(F) Entry on private premises. The Forester or his or her duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him or her under this subchapter, in accordance with § 10.20.

(G) Diagnosis. The Forester shall, upon finding conditions indicating Dutch elm disease or other infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis or take other steps for diagnosis as may be recommended by the Commissioner. Except as provided in division (J) below, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

(H) Abatement generally. No action to remove, destroy and dispose, or require the removal, destruction, and disposal of elm trees, wood infected with Dutch elm fungus, oak trees infected by oak wilt fungus or fraxinus spp (ash) trees or fraxinus spp (ash) wood harboring emerald ash borer shall be taken until a reasonably certain diagnosis of the disease has been made. When such reasonably certain diagnosis has been made, the infected tree or wood shall be removed, destroyed, and disposed of in a manner which will effectively destroy and prevent as fully as possible the spread of the Dutch elm or oak wilt disease fungus, or the spread of emerald ash borer populations or other tree diseases will be handled by the recommendations of the Commissioner of Agriculture.

(1) Presence of elm bark beetles or emerald ash borer. When the presence of elm bark beetles has been discovered in or upon any living elm tree but the presence of Dutch elm disease fungus is not then or thereafter diagnosed, the tree shall be treated in a manner which will effectively destroy and prevent as full as possible the spread of the elm bark beetle. When the presence of emerald ash borer has been discovered in or upon a living fraxinus (ash) tree, the tree shall be treated in a manner which will effectively destroy and prevent as full as possible the spread of the emerald ash borer. If the treatment is not or, because of the extent of infestation, cannot be effective, the tree shall be removed, destroyed, and disposed of.

(2) Dead elm or fraxinus (ash) trees, logs, stumps, and the like. Standing dead elm trees, elm logs, branches, stumps, firewood, or other raw material from which the bark has not been removed and which are not infected with Dutch elm disease fungus, shall have the bark removed, destroyed, and disposed of or shall be treated in a manner which will effectively destroy and prevent as fully as possible the spread of the elm bark beetle, emerald ash borer or other diagnosed tree diseases. If the treatment is not effective, or, because of the extent of infestation, cannot be

effective, the trees, logs, branches, stumps, firewood, or other raw elm material shall be removed, destroyed, and disposed of.

(3) Specifications and procedures. The City Forester shall establish specifications and procedures for the removal, destruction, and disposal of trees and wood infected with Dutch elm disease fungus, oak wilt fungus, or emerald ash borer for treating live elm or fraxinus (ash) tree infested with elm bark beetles or emerald ash borers, and for removing, destroying, and disposing of elm or fraxinus (ash) trees, logs, branches, stumps, firewood, and other raw elm material. The specifications and procedures shall be consistent with current specifications and procedures designated or approved by the Commissioner of Agriculture.

(I) Abatement on private or government property.

(1) Whenever a nuisance as defined in division (C) above is found to exist on private property outside any public way in the city, or upon property owned and controlled by a governmental unit other than the city, the owner or person in control of the property shall be notified in writing by mail or by personal delivery that the condition exists. Once the letter is received by the property owner, it is their responsibility to contact the Public Works Department and arrange actions for removal. The notice states that if the nuisance is not abated by the owner or person in control of the property within 20 days after receipt of the notice, in the manner prescribed by the City Forester, the city by and through its City Council may enter upon the premises and abate the nuisance.

(2) If the owner or person in control of any private premises upon which a nuisance exists does not abate or eliminate the same within 30 days after receipt of notification, the City Council, its officers, employees, and agents shall proceed to have the nuisance properly abated or eliminated.

(J) Abatement on city property. Nuisances as defined in division (C) above which exist upon property owned or controlled by the city, including public street rights-of-way, shall be abated or eliminated by the City Council forthwith in accordance with established specifications and procedures.

(K) Cost of abatement. If, pursuant to division (I) above, the City Council orders the removal or abatement of a nuisance, the City Forester shall report the cost of the removal or abatement to the Council and the expense thereof plus an amount determined by the Council to reimburse the city for its cost of inspection and eradication shall be assessed by the Council upon the lot or lots on which the nuisance was located, notice being first given by publication in the official paper of the time and place that the assessment shall be made. The assessment procedure shall be as prescribed by M.S. § 429.101, as it may be amended from time to time, and the assessment shall be a lien on the lot or lots, and shall be returned and collected in the same manner as other city taxes.

(L) Procedures for removal of infected trees and wood.

(1) Whenever the Forester finds with reasonable certainty that infestation defined in division (C) above exists in any tree or wood in any public or private place in the city, he or she shall proceed as follows:

(a) If the Forester finds that the danger of infestation of other elm trees is not imminent because of elm dormancy, he or she shall make a written report of his or her findings to the City Council which shall proceed by:

1. Abating the nuisance as a public improvement under M.S. Ch. 429, as it may be amended from time to time; or

2. Abating the nuisance as provided in division (L)(2) below.

(b) If the Forester finds that danger of infestation of other elm trees is imminent, the Forester shall notify the property owner by mail and/or by leaving notice at the property and that the nuisance will be abated within a specified time, not less than five days from the date of mailing of the notice. The Forester shall immediately report the action to the City Council; and after the expiration of the time limited by the notice, the Forester may abate the nuisance.

(2) Upon receipt of the Forester's report required by division (L)(1)(a), the City Council shall by resolution order the nuisance abated. Before action is taken on a resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once not less than one week prior to the meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At the hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with the modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(3) The Forester shall keep a record of the costs of abatements done under this section and shall report monthly to the City Clerk all work done for which assessments are to be made stating and certifying the description of the land, lots, and parcels involved and the amount chargeable to each.

(4) On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this subchapter. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to

the County Auditor and collection the following year along with current taxes.

(5) The City Council has determined that the health of the trees within the municipal limits is threatened by a fatal disease known as Dutch elm disease, oak wilt, or emerald ash borer, or other fatal tree disease. It has further determined that the loss of these trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare, and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of this disease, and this subchapter is being enacted for that purpose. It is declared to be the intention of the Council to establish a policy for sharing in the cost of replacement tree(s) in the amount of up to $50 per property.

(M) Spraying elm trees. Whenever the Forester determines that any elm tree or elm wood within the city is infected with Dutch elm fungus, the Forester may treat all nearby high value elm trees with an effective elm bark beetle destroying concentrate. Treating activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his or her agents whenever possible.

(N) Transporting elm wood prohibited. It is unlawful for any person to transport within the city any bark-bearing elm wood without having obtained a permit from the Forester. The Forester shall grant permits only when the purposes of the subchapter will be served thereby.

(O) Interference prohibited. No person shall prevent, delay, or interfere with the Forester or the Foresters agents while they are engaged in the performance of duties imposed by this subchapter.

(Prior Code, § 8-3-6) (Ord. 492, passed 1-26-2009; Ord. 495, passed 1-26-2009; Ord. 661, passed 2-13-2017; Ord. 611, passed 2-13-2017) Penalty, see § 92.99

§ 92.51 ABUSE OR MUTILATION.

No person shall damage, cut, carve, kill, or injure the bark of any tree or plant on any public property; attach any rope, wire, or other contrivance to any tree or plant on public property; dig in or otherwise disturb public grass areas, or in any other way injure or impair the natural beauty or usefulness of any area or public property; cause or permit any wire charged with electricity or any gaseous, liquid, or solid substance harmful to trees or plants to come in contact with them.

(Prior Code, § 8-3-7) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating §§ 92.01 through 92.05 shall be guilty of a petty misdemeanor.

(Prior Code, § 7-9-6) (Ord. 378, passed 5-28-2002)

CHAPTER 93: PARKS AND RECREATION

Section

Parks and Cemeteries

93.01 Purpose

93.02 Observation of posted rules

93.03 Parking

93.04 Refuse

93.05 Fires

93.06 Snowmobiles

93.07 Speed limit

93.08 Park and cemetery hours

93.09 Cemetery rules and regulations

PARKS AND CEMETERIES

§ 93.01 PURPOSE.

It is the purpose of this subchapter to protect and promote the public health, safety, and general welfare of the city by regulating the use of city parks and cemeteries.

(Prior Code, § 8-6-1)

§ 93.02 OBSERVATION OF POSTED RULES.

All posted rules and regulations by the city must be observed in addition to those contained in this subchapter.

(Prior Code, § 8-6-2)

§ 93.03 PARKING.

Parking is allowed only in defined areas. Parking is prohibited on grass or walk paths.

(Prior Code, § 8-6-3) Penalty, see § 10.99

§ 93.04 REFUSE.

Refuse must be disposed of properly.

(Prior Code, § 8-6-4)

§ 93.05 FIRES.

Fires are only allowed in barbecue pits or fireplaces and all other fires are prohibited.

(Prior Code, § 8-6-5) Penalty, see § 10.99

§ 93.06 SNOWMOBILES.

Snowmobiles are not allowed in cemeteries or the West Riverside Park.

(Prior Code, § 8-6-6) Penalty, see § 10.99

§ 93.07 SPEED LIMIT.

All vehicular traffic in city parks and cemeteries is limited to a speed of 10 mph.

(Prior Code, § 8-6-7)

§ 93.08 PARK AND CEMETERY HOURS.

All city parks shall be open to the public one-half hour before sunrise to one-half hour after sunset daily.

(Prior Code, § 8-6-8) (Ord. 81, passed 7-14-1980)

§ 93.09 CEMETERY RULES AND REGULATIONS.

City Council shall adopt rules and regulations for Riverside Cemetery. The city's Parks Commission shall be responsible for reviewing and making recommendations on an annual basis to the Council concerning the rules and regulations and the fees charged for cemetery services. All rules and regulations governing Riverside Cemetery shall be as set forth in the policies document approved by the Council on October 22, 2001 and all revisions thereto as approved by the Council.

(Prior Code, § 8-6-10) (Ord. 367, passed 10-22-2001)

CHAPTER 94: STREETS AND SIDEWALKS

Section

Right-of-Way Regulations

94.01 Findings, purpose, and intent

94.02 Election to manage the right-of-way

94.03 Definitions

94.04 Administration

94.05 Registration and right-of-way occupancy

94.06 Registration information

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94.08 Permit requirement

94.09 Permit applications

94.10 Issuance of permit; conditions

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94.13 Joint applications

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94.23 Location and relocation of facilities
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Skateboards, Roller Skates/Blades, and Scooters
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Salt Storage
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RIGHT-OF-WAY REGULATIONS

§ 94.01 FINDINGS, PURPOSE, AND INTENT.

(A) To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-

way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

(B) Accordingly, the city hereby enacts this new subchapter of this code relating to right-of-way permits and administration. This subchapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this subchapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this subchapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

(C) This subchapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in M.S. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act"), as they may be amended from time to time, and the other laws governing applicable rights of the city and users of the right-of-way. This subchapter shall also be interpreted consistent with Minn. Rules parts 7819.0050 through 7819.9950 and Minn. Rules Ch. 7560 where possible. To the extent any provision of this subchapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This subchapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

(Prior Code, § 8-11-1)

§ 94.02 ELECTION TO MANAGE THE RIGHT-OF-WAY.

Pursuant to the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects, pursuant M.S. § 237.163, subd. 2(b), as it may be amended from time to time, to manage rights-of-way within its jurisdiction.

(Prior Code, § 8-11-2)

§ 94.03 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED FACILITY. A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other

facility, that is in use or still carries service. A facility is not ABANDONED unless declared so by the right-of-way user or by the city. A facility is considered ABANDONED after 12 months of non-use.

ANTI-ICING. The application of a liquid deicer prior to the onset of a snow event.

APPLICANT. Any person requesting permission to excavate or obstruct a right-of-way.

CITY. The city of Monticello, Minnesota. For purposes of § 94.28, CITY also means the city's elected officials, officers, employees, and agents.

COLLOCATE or COLLOCATION. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure that is owned privately or by a local government unit.

COMMISSION. The state's Public Utilities Commission.

CONGESTED RIGHT-OF-WAY. A crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with M.S. § 216D.04, subd. 3, as it may be amended from time to time, over a continuous length in excess of 500 feet.

CONSTRUCTION PERFORMANCE BOND. Any of the following forms of security provided at the permittee's option:

(1) Individual project bond;

(2) Cash deposit;

(3) Security of a form listed or approved under M.S. § 15.73, subd. 3, as it may be amended from time to time;

(4) Letter of credit, in a form acceptable to the city;

(5) Self-insurance, in a form acceptable to the city; and

(6) A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

DEGRADATION. A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct the right-of-way earlier than would be required if the excavation or disturbance did not occur.

DEGRADATION COST. Subject to Minn. Rules part 7819.1100, means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minn. Rules parts 7819.9900 to 7819.9950.

DEGRADATION FEE. The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

DEICER. Any substance used to melt snow and ice or used for its anti-icing effects.

DELAY PENALTY. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

DEPARTMENT. The Department of Public Works and Engineering of the city.

DEPARTMENT INSPECTOR. Any person authorized by the city to carry out inspections related to the provisions of this subchapter.

DIRECTOR. The Director of the Department of Public Works of the city, or his or her designee.

EMERGENCY. A condition that:

(1) Poses a danger to life or health, or of a significant loss of property; or

(2) Requires immediate repair or replacement of facilities in order to restore service to a customer.

EQUIPMENT. Any tangible asset used to install, repair, or maintain facilities in any right-of-way.

EXCAVATE. To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

EXCAVATION PERMIT. The permit which, pursuant to this subchapter, must be obtained before a person may excavate in a right-of-way. An EXCAVATION PERMIT allows the holder to excavate that part of the right-of-way described in the permit.

EXCAVATION PERMIT FEE. Money paid to the city by an applicant to cover the costs as provided in § 94.12.

FACILITY or FACILITIES. Any tangible asset in the right-of-way required to provide utility service.

FIVE-YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next five years.

HIGH DENSITY CORRIDOR. A designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

HOLE. An excavation in the pavement, with the excavation having a length less than the width of the pavement.

LOCAL REPRESENTATIVE. A local person or persons, or designee of the person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this subchapter.

MANAGEMENT COSTS or RIGHTS-OF-WAY MANAGEMENT COSTS.

(1) The actual costs a local government unit incurs in managing its public rights-of-way, and includes such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits.

(2) MANAGEMENT COSTS do not include:

(a) Payment by a telecommunications right-of-way user for the use of the public right-of-way;

(b) Unreasonable fees of a third-party contractor used by a local government unit as part of managing its public rights-of-way, including, but not limited to, any third-party contractor fee tied to or based upon customer counts, access lines, revenue generated by the telecommunications right-of-way user, or revenue generated for a local government unit; or

(c) The fees and cost of litigation relating to the interpretation of this section or M.S. § 237.163, as it may be amended from time to time, or any ordinance enacted under those sections, or the local unit of government’s fees and costs related to appeals taken pursuant to M.S. § 237.163, subd. 5, as it may be amended from time to time.

MICRO WIRELESS FACILITY. A small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

OBSTRUCT. To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

OBSTRUCTION PERMIT. The permit which, pursuant to this subchapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

OBSTRUCTION PERMIT FEE. Money paid to the city by a permittee to cover the costs as provided in § 94.12.

PATCH or PATCHING.

(1) A method of pavement replacement that is temporary in nature.

(2) A PATCH consists of:

(a) The compaction of the subbase and aggregate base; and

(b) The replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.

(3) A PATCH is considered full restoration only when the pavement is included in the city's five-year project plan.

PAVEMENT. Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

PERMIT. Has the meaning given RIGHT-OF-WAY PERMIT in M.S. § 237.162, as it may be amended from time to time.

PERMITTEE. Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this subchapter.

PERSON. An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

PUBLIC RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A RIGHT-OF-WAY does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service. (Note: this definition does not include other public grounds that may be the subject of other city requirements.)

REGISTRANT. Any person who:

(1) Has or seeks to have its equipment or facilities located in any right-of-way; or

(2) In any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

RESTORATION COST. The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of state's Public Utilities Commission rules.

RESTORE or RESTORATION. The process by which an excavated right-of-way and surrounding area, including pavement and foundation and turf, is returned to the same condition and life expectancy that existed before excavation.

RIGHT-OF-WAY (ROW) PERMIT. The excavation permit, the obstruction permit, or the small wireless facility permit, or all types of ROW PERMIT authorized by law or ordinance, depending on the context, required by this subchapter.

RIGHT-OF-WAY USER.

(1) A telecommunications right-of-way user as defined by M.S. § 237.162, subd. 4, as it may be amended from time to time; or

(2) A person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

SERVICE or UTILITY SERVICE. Includes:

(1) Those services provided by a public utility as defined in M.S. § 216B.02, subds. 4 and 6, as it may be amended from time to time;

(2) Services of a telecommunications right-of-way user, including transporting of voice or data information;

(3) Services of a cable communications systems as defined in M.S. Ch. 238, as it may be amended from time to time;

(4) Natural gas or electric energy or telecommunications services provided by the city;

(5) Services provided by a cooperative electric association organized under M.S. Ch. 308A, as it may be amended from time to time; and

(6) Water and sewer, including service laterals, steam, cooling, or heating services.

SERVICE LATERAL. An underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a

common source to an end-use customer. A SERVICE LATERAL is also an underground facility that is used in the removal of wastewater from a customer's premises.

SMALL WIRELESS FACILITY. Includes:

(1) A wireless facility that meets both of the following qualifications:

(a) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and

(b) All other wireless equipment associated with the SMALL WIRELESS FACILITY, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume.

(2) A micro wireless facility.

SUPPLEMENTARY APPLICATION. An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TELECOMMUNICATIONS RIGHT-OF-WAY USER.

(1) A person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or is intended to be used for providing wireless service, or transporting telecommunications or other voice or data information.

(2) A cable communication system defined and regulated under M.S. Ch. 238, as it may be amended from time to time, and telecommunications activities related to providing natural gas or electric energy services, a public utility as defined in M.S. § 216B.02, as it may be amended from time to time, a municipality, a municipal gas or power agency organized under M.S. Ch. 453 or Ch. 453A, as they may be amended from time to time, or a cooperative electric association organized under M.S. Ch. 308A, as it may be amended from time to time, are not TELECOMMUNICATIONS RIGHT-OF-WAY USERS for the purposes of this section and M.S. § 237.163, as it may be amended from time to time, except to the extent these entities are offering wireless services.

TEMPORARY SURFACE. The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the

excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.

TRENCH. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

TWO-YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next two years.

UTILITY POLE. A pole that is used in whole or in part to facilitate telecommunications or electric service.

WIRELESS FACILITY.

(1) Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including:

(a) Equipment associated with wireless service;

(b) A radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and

(c) A small wireless facility.

(2) WIRELESS FACILITY does not include:

(a) Wireless support structures;

(b) Wireline backhaul facilities; or

(c) Coaxial or fiber-optic cables:

1. Between utility poles or wireless support structures; or

2. That are not otherwise immediately adjacent to or directly associated with a specific antenna.

WIRELESS SERVICE. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. WIRELESS SERVICE does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under 47 U.S.C. § 522, clause (6).

WIRELESS SUPPORT STRUCTURE. A new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by a local government unit.

WIRELINE BACKHAUL FACILITY. A facility used to transport communications data by wire from a wireless facility to a communications network.

(Prior Code, § 8-11-3) (Ord. 790, passed 10-10-2022)

§ 94.04 ADMINISTRATION.

The Director is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.

(Prior Code, § 8-11-4)

§ 94.05 REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

(A) Registration. Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, must register with the city. Registration will consist of providing application information.

(B) Registration prior to work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

(C) Exceptions. Nothing herein shall be construed to repeal or amend the provisions of §§ 70.20 through 70.24. However, nothing herein relieves a person from complying with the provisions of the M.S. Ch. 216D, Gopher One Call Law, as it may be amended from time to time.

(Prior Code, § 8-11-5)

§ 94.06 REGISTRATION INFORMATION.

(A) Information required. The information provided to the city at the time of registration shall include, but not be limited to:

(1) Each registrant’s name, Gopher One Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers;

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how

to contact the local representative in an emergency shall be provided at the time of registration; and

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the city; and

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:

1. Use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees;

2. Placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

3. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

4. Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

5. Indicating comprehensive liability coverage, automobile liability coverage, worker's compensation, and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this subchapter;

6. The city may require a copy of the actual insurance policies;

7. If the person is a corporation, a copy of the certificate is required to be filed under M.S. Ch. 302A, as it may be amended from time to time, as recorded and certified to by the Secretary of State; and

8. A copy of the person's order granting a certificate of authority from the state's Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

(B) Notice of changes. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within 15 days following the date on which the registrant has knowledge of any change.

(Prior Code, § 8-11-6)

§ 94.07 REPORTING OBLIGATIONS.

(A) Operations.

(1) Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city. The plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way. The plan shall include, but not be limited to, the following information:

(a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

(2) The term PROJECT in this section shall include both next-year projects and five-year projects.

(3) By January 1 of each year, the city will have available for inspection in the city's office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

(4) Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all changes in the list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

(B) Additional next-year projects. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

(Prior Code, § 8-11-7)

§ 94.08 PERMIT REQUIREMENT.

(A) Permit required. Except as otherwise provided in this code, no person may obstruct, excavate, or place any structure in any right-of-way without first having obtained the appropriate right-of-way permit from the

city to do so. All work completed as part of a right-of-way permit shall conform to the city's general specifications and standard detail plates for street and utility construction, and the city's design manual.

(1) Excavation permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) Obstruction permit. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(3) Small wireless facility permit. A small wireless facility permit is required by a registrant to place a new wireless support structure or to collocate a small wireless facility in a public right-of-way managed by the city. A separate collocation agreement is required to collocate a small wireless facility on existing city structures. A maximum of 15 small wireless facilities may be consolidated onto one permit application, provided that all of the facilities:

(a) Are located within a two-mile radius;

(b) Consist of substantially similar equipment; and

(c) Are to be placed on similar types of wireless support structures.

(B) Permit extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless:

(1) The person makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and

(2) A new permit or permit extension is granted.

(C) Delay penalty. In accordance with Minn. Rules part 7819.1000, subd. 3 and notwithstanding division (B) above, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

(D) Permit display. Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

(Prior Code, § 8-11-8)

§ 94.09 PERMIT APPLICATIONS.

(A) Application for a permit is made to the city.

(B) Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

(1) Registration with the city pursuant to this subchapter;

(2) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities;

(3) Payment of money due the city for:

(a) Permit fees, estimated restoration costs, and other management costs;

(b) Prior obstructions or excavations;

(c) Any undisputed loss, damage, or expense suffered by the city because of applicant’s prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; and

(d) Franchise fees or other charges, if applicable.

(4) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing; and

(5) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

(Prior Code, § 8-11-9)

§ 94.10 ISSUANCE OF PERMIT; CONDITIONS.

(A) Permit issuance. If the applicant has satisfied the requirements of this subchapter, the city shall issue a permit.

(B) Conditions. The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with

all requirements of local, state, and federal laws, including, but not limited to, M.S. §§ 216D.01 through 216D.09 (Gopher One Call Excavation Notice System), as they may be amended from time to time, and Minn. Rules Ch. 7560.

(Prior Code, § 8-11-10)

§ 94.11 RIGHT-OF-WAY PERMIT FEES.

(A) Fee schedule. See Chapter 36 of this code of ordinances.

(B) Excavation permit fee. The city shall establish an excavation permit fee in an amount sufficient to recover the following costs:

(1) The city management costs; and

(2) Degradation costs, if applicable.

(C) Obstruction permit fee. The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city management costs.

(D) Small wireless facility permit fees. The city shall establish the permit fee in an amount sufficient to recover the city management costs or collect the maximum fees authorized by law.

(E) Payment of permit fees. No permit shall be issued without payment of excavation, obstruction, or small wireless facility permit fees. The city may allow applicant to pay the fees within 30 days of billing.

(F) Non refundable. Permit fees that were paid for a permit that the city has revoked for a breach as stated in § 94.21 are not refundable.

(G) Application to franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(Prior Code, § 8-11-11)

§ 94.12 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 94.16.

(B) Patch and restoration. Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

(1) City restoration. If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, following the restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with correcting the defective work.

(2) Permittee restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rule part 7819.3000.

(3) Degradation fee in lieu of restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(C) Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rules part 7819.1100.

(D) Duty to correct defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. The work shall be completed within five calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under § 94.16.

(E) Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(Prior Code, § 8-11-12)

§ 94.13 JOINT APPLICATIONS.

(A) Joint application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

(B) Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(C) With city projects. Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

(Prior Code, § 8-11-13)

§ 94.14 SUPPLEMENTARY APPLICATIONS.

(A) Limitation on area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area:

(1) Make application for a permit extension and pay any additional fees required thereby; and

(2) Be granted a new permit or permit extension.

(B) Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

(Prior Code, § 8-11-14)

§ 94.15 OTHER OBLIGATIONS.

(A) Compliance with other laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses,

and authority and to pay all fees required by the city or other applicable rule, law, or regulation. A permittee shall comply with all requirements of local, state, and federal laws, including, but not limited to, M.S. § 216D.01 through 216D.09 (Gopher One Call Excavation Notice System), as they may be amended from time to time, and Minn. Rules Ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(B) Prohibited work. Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for the work.

(C) Interference with right-of-way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

(D) Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in M.S. Ch. 216D, as it may be amended from time to time, and Minn. Rules Ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Director.

(Prior Code, § 8-11-15)

§ 94.16 DENIAL OF PERMIT.

The city may deny a permit for failure to meet the requirements and conditions of this subchapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. Denials will be provided in writing and in accordance with statutory requirements.

(Prior Code, § 8-11-16)

§ 94.17 INSTALLATION REQUIREMENTS.

(A) The placement of any structures or facilities, the excavation, backfilling, patching, and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules parts 7819.1100 and 7819.5000 and other applicable local requirements, in so far

as they are not inconsistent with the M.S. §§ 237.162 and 237.163, as they may be amended from time to time. Installation of service laterals shall be performed in accordance with Minn. Rules Ch. 7560 and this subchapter. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in § 94.23(B). Wireless support structures shall not exceed 50 feet in height. To the extent possible, all ground mounted equipment shall be installed underground or in locations and in a manner to minimize interference with traffic, pedestrians, and other users of the right of way or the appearance of abutting properties.

(B) Unless unfeasible as determined by the city, all utilities shall be placed underground for new construction, roadway reconstruction, and replacement of old facilities. All underground work shall be completed prior to street surfacing.

(Prior Code, § 8-11-17) (Ord. 746, passed 8-10-2020)

§ 94.18 INSPECTION.

(A) Notice of completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules part 7819.1300.

(B) Site inspection. Permittee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) Authority of Director.

(1) At the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(2) The Director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If the proof has not been presented within the required time, the Director may revoke the permit pursuant to § 94.22.

(Prior Code, § 8-11-18)

§ 94.19 WORK DONE WITHOUT A PERMIT.

(A) Emergency situations.

(1) Each registrant shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this subchapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(B) Non-emergency situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for the permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this subchapter.

(Prior Code, § 8-11-19)

§ 94.20 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

(Prior Code, § 8-11-20)

§ 94.21 REVOCATION OF PERMITS.

(A) Substantial breach. The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

(1) The violation of any material provision of the right-of-way permit;

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

(3) Any material misrepresentation of fact in the application for a right-of-way permit;

(4) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 94.19.

(B) Written notice of breach. If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy the violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) Response to notice of breach. Within 24 hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the city, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one full year.

(D) Cause for probation. From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

(E) Automatic revocation. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

(F) Reimbursement of city costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

(Prior Code, § 8-11-21)

§ 94.22 MAPPING DATE.

(A) Information required. Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the Director accurate maps and drawings certifying the “as-built” location of all equipment installed, owed, and maintained by the permittee. The maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city’s electronic mapping system, when practical or as a condition imposed by the Director. Failure to provide maps and drawings pursuant to this division (A) shall be grounds for revoking the permit holder’s registration.

(B) Service laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rules part 7560.0150 subpart 2, shall require the permittee’s use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the Director reasonably requires it. Permittees or their subcontractors shall submit to the Director evidence satisfactory to the Director of the installed service lateral locations. Compliance with this division (B) and with applicable Gopher State One Call Law and Minnesota Rules governing service laterals installed after December 31, 2005 shall be a condition of any city approval necessary for:

(1) Payments to contractors working on a public improvement project including those under M.S. Ch. 429, as it may be amended from time to time; and

(2) City approval under development agreements or other subdivision or site plan approval under M.S. Ch. 462, as it may be amended from time to time. The Director shall reasonably determine the appropriate method of providing the information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

(Prior Code, § 8-11-22)

§ 94.23 LOCATION AND RELOCATION OF FACILITIES.

(A) Compliance with regulations. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minn. Rules parts 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

(B) Corridors.

(1) The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(2) Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs, and hardship to the registrant.

(C) Nuisance. One year after the passage of this subchapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

(D) Limitation of space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public’s needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

(Prior Code, § 8-11-23)

§ 94.24 PRE-EXCAVATION FACILITIES LOCATION.

In addition to complying with the requirements of M.S. §§ 216D.01 through 216D.09 (One Call Excavation Notice System), as they may be amended from time to time, before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all the facilities. Any registrant whose facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

(Prior Code, § 8-11-24)

§ 94.25 DAMAGE TO OTHER FACILITIES.

(A) When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing.

(B) Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

(Prior Code, § 8-11-25)

§ 94.26 RIGHT-OF-WAY VACATION.

If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200.

(Prior Code, § 8-11-26)

§ 94.27 INDEMNIFICATION AND LIABILITY.

By registering with the city, or by accepting a permit under this subchapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule part 7819.1250.

(Prior Code, § 8-11-27)

§ 94.28 ABANDONED AND UNUSABLE FACILITIES.

(A) Discontinued operations. A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this subchapter have been lawfully assumed by another registrant.

(B) Removal. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way, unless this requirement is waived by the city.

(Prior Code, § 8-11-28)

§ 94.29 APPEAL.

(A) A right-of-way user that:

(1) Has been denied registration;

(2) Has been denied a permit;

(3) Has had a permit revoked;

(4) Believes that the fees imposed are not in conformity with M.S. § 237.163, subd. 6, as it may be amended from time to time; or

(5) Disputes a determination of the Director regarding § 94.23(B) may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council.

(B) The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Prior Code, § 8-11-29)

§ 94.30 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety, and welfare of the public.

(Prior Code, § 8-11-30)

SKATEBOARDS, ROLLER SKATES/BLADES, AND SCOOTERS

§ 94.45 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CENTRAL BUSINESS DISTRICT. Any area of the city within a B-3 (highway business) zoning district or B-4 (regional business) zoning district.

OPERATE. To ride on or control the operation of a skateboard, roller skates/blades, or scooter.

OPERATOR. Every person who operates or is in actual physical control of a skateboard, roller skates/blades, or scooter.

ROLLER SKATES/BLADES. A shoe with wheels attached or a device with wheels which is designated to be attached to a shoe.

SCOOTER. A foot-operated vehicle consisting of a narrow board mounted between two wheels, tandem, with an upright steering handle attached to the front wheel.

SKATEBOARDS. A wheeled device designed to transport a rider in a standing position, which device is not otherwise secured to the rider’s feet or shoes.

(Prior Code, § 8-10-1)

§ 94.46 PROHIBITED AREAS.

No person shall ride or use a skateboard, roller skates/blades, or scooter:

(A) On any public sidewalk, street, or any public parking lot situated in the Central Business District in any careless, reckless, or negligent manner so as to endanger or be likely to endanger the safety of any person or property of any other person;

(B) On any other public or private property of another without the express permission to do so by the owner or occupant of the property; or

(C) On any state highway in the city.

(Prior Code, § 8-10-2) Penalty, see § 94.99

§ 94.47 OBSERVATION OF RULES OF THE ROAD.

(A) The operator of a skateboard, roller skates/blades, or scooter emerging from any alley, driveway, or building upon approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right-of-way to all pedestrians approaching the sidewalk or sidewalk area and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(B) No person operating a skateboard, roller skates/blades, or scooter shall attach the same or the person of the operator to any vehicle upon a roadway.

(C) Every person operating a skateboard, roller skates/blades, or scooter upon a roadway shall ride as close as possible to the right-hand curb or edge of the roadway.

(D) No person shall use a skateboard, roller skates/blades, or scooter upon a public street, sidewalk, or other roadway after sunset and before sunrise.

(Prior Code, § 8-10-3) Penalty, see § 94.99

SALT STORAGE

§ 94.55 REMOVAL OF SNOW AND ICE; COMMERCIAL, INDUSTRIAL, INSTITUTIONAL PROPERTIES.

(A) Indoor operations for the storage of deicing materials must be provided whenever possible in order to prevent such material from being affected by rain, snow, or melt water.

(B) All salt, sand, and other deicing materials stored outdoors must be covered at all times. When not using a permanent roof, a waterproof impermeable, flexible cover must be placed over all storage piles. The cover must prevent runoff and leachate from being generated by the outdoor storage piles. The cover must be secured to prevent removal by wind or other storm events. Piles must be formed in a conical shape and covered as necessary to prevent leaching.

(C) Facility siting.

(1) The facility must be in close proximity to the area in which the deicing materials are to be used, if practical.

(2) Each facility must be located outside of floodplains and 200 feet from lakes, rivers, streams, ditches, storm drains, manholes, catch basins,

wetlands, and any other areas likely to absorb runoff. A facility must not be located in close proximity to surface water features, water supplies, wells or drywells.

(3) A facility must be located on impermeable surfaces.

(4) The property's slope must be away from the facility's salt, deicer, and sand storage area.

(5) Salt vulnerable natural areas should be avoided as storage facilities to the extent possible. Where they cannot be avoided, specific measures should be instituted to protect vulnerable areas. Salt vulnerable areas include, but are not limited to:

(a) Areas with salt sensitive vegetation;

(b) Areas serving as a source of drinking water (surface water and groundwater);

(c) Areas with bodies of water with low dilution, low volume, or salt sensitive species; or

(d) Areas associated with groundwater recharge zones or shallow water table, with medium to high permeable soils.

(6) Snow piles. Snow piles must be located downslope from salt and deicer storage areas to prevent the snow melt from flowing through storage areas and carrying material to the nearest drainage system or waterway.

(7) Transfer of materials. Practices must be implemented in order to reduce exposure (e.g., sweeping, diversions, and/or containment) when transferring salt or other deicing material.

(Ord. 790, passed 10-10-2022)

§ 94.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who violates any provision of §§ 94.45 through 94.47 shall be guilty of a petty misdemeanor and upon conviction shall be punished not more than the maximum penalty as prescribed by state law. In addition, any peace officer who observes any person violate any provisions of §§ 94.45 through 94.47 is authorized to seize the offender’s roller skates/blades, skateboard, or scooter and to hold same at the County Sheriff’s Department or city’s Police Department. In the event of such seizure, the offender, if an adult, may secure the return of the article seized after 24 hours have

elapsed since the seizure. In the case of a minor, the article seized shall be returned only to the parent or guardian of the minor offender after 24 hours have elapsed since the seizure.

(Prior Code, § 8-10-4) (Ord. 263, passed 11-28-1994; Ord. 358, passed 1-8-2001)

CHAPTER 95: FIRE PREVENTION

Section

Fire Code

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FIRE CODE

§ 95.01 FIRE CODE.

The Minnesota State Fire Code (MSFC), current adopted version, and all amendments, including Appendices B, C, D, E and P thereto, one copy of which has been marked as the official copy and which is on file in the office of the City Clerk, is hereby adopted as the Fire Code for the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. Every provision contained in this Code, except as modified or amended by this subchapter, is hereby adopted and made a part of this subchapter as if fully set forth herein.

(Prior Code, § 5-1-1) (Ord. 391, passed 6-9-2003; Ord. 742, passed 5-11-2020)

§ 95.02 ENFORCEMENT.

(A) The Chief of the Fire Department serving the city or the representative authorized by the Chief shall enforce the provisions of this subchapter.

(B) The Chief of the Fire Department may detail the members of the Fire Department as inspectors as shall from time to time be necessary. The Chief of the Fire Department may recommend the employment of technical inspectors who, when the authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the Fire Department, and appointments made after examination shall be for an indefinite term with removal only for cause.

(Prior Code, § 5-1-2) (Ord. 391, passed 6-9-2003)

§ 95.03 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CORPORATION COUNSEL. The attorney for the city.

JURISDICTION. The City of Monticello.

(Prior Code, § 5-1-3)

FIRE LANES

§ 95.15 ESTABLISHMENT.

(A) Orders establishing fire lanes. The Fire Department is hereby authorized to order the establishment of fire lanes on public or private property as may be necessary in order that the travel of fire equipment may not be interfered with and that access to fire hydrants or buildings may not be obstructed.

(B) Signs and markings of fire lanes. When a fire lane has been ordered to be established pursuant to this section, it shall be marked by a sign bearing the words “No Parking - Fire Lane - By Order of the Fire Department”. When the fire lane is on public property or a public right-of-way, the sign or signs shall be erected by the city; and when on private property, they shall be erected by owner at his or her own expense within 30 days after he or she has been notified of the order.

(C) Parking or otherwise obstructing prohibited. After a sign or signs have been erected in accordance with division (B) above, no person shall park a vehicle or otherwise occupy or obstruct the fire lane.

(Prior Code, § 5-2-1) Penalty, see § 95.99

§ 95.16 PROHIBITED ACTS.

(A) Interference with fire service duties. No unauthorized persons shall ride upon, race with, trail, or follow within 500 feet of any apparatus belonging to the Fire Department when the apparatus is responding to an emergency call.

(B) Protection of fire hoses. No person shall drive any vehicle over a fire hose except upon specific orders from a member of the Fire Department of this municipality, and then only with due caution.

(C) Parking near fire equipment. No person shall park any vehicle or place any material or other obstruction within ten feet of any fire hydrant or fire reservoir, nor shall any person enter any block or park any vehicle within 300 feet of a place where a fire is in progress which requires equipment from the Fire Department to be present.

(D) False fire alarm. No person shall sound a false fire alarm knowing the alarm to be false.

(E) Authorized use of fire equipment. No person shall use any fire apparatus or equipment for any reason except as may be prescribed by the Fire Chief or his or her delegated representatives.

(Prior Code, § 5-2-2) Penalty, see § 95.99

OPEN BURNING

§ 95.30 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NATURAL/VEGETATIVE MATTER. Grass clippings, leaves, twigs, sticks, and branches, but not the main trunk nor primary limbs of trees, and the non-harvested parts of garden plants.

OPEN BURNING. The burning of any matter whereby the resultant combustion products are emitted directly to the atmosphere without passing through an adequate stack, duct, or chimney.

SCOPE. As used herein, the following words shall have the meanings defined herein.

(Prior Code, § 5-4-1)

§ 95.31 BURNING RESTRICTED.

(A) No person shall cause, allow, or permit any burning in the city except as may hereinafter be allowed.

(B) Open burning may be conducted if an open burning permit is obtained pursuant to the requirements of this subchapter and other regulations of local, state, and federal agencies.

(Prior Code, § 5-4-2) Penalty, see § 95.99

§ 95.32 OPEN BURNING PERMIT APPLICATIONS.

(A) Application. Application for open burning permits may be made in cases where fires are proposed to be set for the following purposes:

(1) Bona fide instruction and training of fire fighting personnel and for the testing of fire extinguishing equipment;

(2) Elimination of fire of health hazards which cannot be abated by any other practicable means;

(3) Activities in accordance with accepted forest or game management;

(4) Ground thawing for utility repair and construction; and/or

(5) The required maintenance and management of designated prairie grass areas.

(B) Restrictions. A burning permit shall be issued on a prescribed form to the applicant if the burning is for one of the purposes set forth in division (A) above and the applicant agrees that all burning shall be conducted under the following circumstances.

(1) The prevailing wind at the time of the burning shall be away for nearby residences.

(2) The burning shall be conducted as far away as practical from any highway or public road and controlled so that a traffic hazard is not created.

(3) The burning may not be conducted during the duration of an air pollution alert, warning, or emergency.

(4) The recipient of the permit or his or her authorized representative shall be present for the duration of any fire authorized by the permit.

(5) Prior notice shall be given to the local Department of Natural Resources Forest Officer, local Fire Marshal, or local Fire Chief of the time and location of any fire authorized by the permit.

(6) Open burning for ground thawing shall be conducted in accordance with the following additional restrictions.

(a) Fuels and starting materials shall be of a kind which do not generate appreciable smoke.

(b) Propane gas thawing torches or other devices causing minimal pollution shall be used when practicable.

(7) Open burning of materials permitted in division (A)(5) above shall be conducted in accordance with the following additional restrictions.

(a) The location of the burning shall not be within 600 feet of an occupied residence other than those located on the property on which the burning is conducted. The distance can be reduced when the burn is performed by or with the assistance of the Fire Department.

(b) Oils, rubber, and other similar smoke producing materials shall not be burned or used as starting materials.

(c) The burning shall not be conducted within one mile of any airport or landing strip unless approved by the Fire Chief.

(8) The following persons are authorized to accept application and issue open burning permits:

(a) Zoning Administrator;

(b) Building Official; and

(c) Fire Chief.

(Prior Code, § 5-4-3) (Ord. 373, passed 4-22-2002)

§ 95.33 PERMIT DENIAL AND/OR REVOCATION.

(A) Any permit application submitted shall be denied if:

(1) A reasonable, practical alternative method of disposal of the material is available; or

(2) A nuisance condition would result from the burning.

(B) Any permit is subject to revocation at the discretion of a Department of Natural Resources Forest Officer, the local Fire Marshal, or Fire Chief, or the permit issuer if:

(1) A reasonable practical method of disposal of the material is found;

(2) A fire hazard exists or develops during the course of the burning; or

(3) Any of the conditions of the permit are violated.

(Prior Code, § 5-4-4)

§ 95.34 LIABILITY.

The granting of an open burning permit under any provisions of this subchapter does not excuse a person from the consequences, damages, or inquires which may result therefrom.

(Prior Code, § 5-4-5)

§ 95.35 CONFLICTING LAWS.

Nothing in this subchapter shall be construed to allow open burning in those areas in which open burning is prohibited by other laws, regulations, or ordinances.

(Prior Code, § 5-4-6)

§ 95.36 RECREATIONAL FIRES.

Fires set for recreational, ceremonial, food preparation, or social purposes are permitted provided the following conditions are adhered to:

(A) Only dry raw wood, or wood products such as sticks. No painted or treated wood or other lightweight vegetation such as leaves shall be burned in a recreational fire;

(B) Fire must be contained within a three feet diameter fire pit area;

(C) Fire must not be left unattended; and

(D) Fire pits must be located in rear yard only, at least 25 feet from any structure or property line. Portable fire pits with covers are allowed for use in front yards on driveways only and may not be within 25 feet of any structure in the front yard. All fires must be completely extinguished with water before leaving them unattended. Portable fire pits with covers shall not be stored on the driveway or front yard when not in use. The wind should also be considered before lighting any fire; and

(E) Commercial fire pits must comply with all of the residential rules with the addition of:

(1) Must be 15 feet from the property line and building and any combustible exterior facade or awning.

(2) No overhead covering above fire.

(3) Wood storage must be locked and only accessible by staff.

(Prior Code, § 5-4-7) (Ord. 252, passed 6-13-1994; Ord. 373, passed 4-22-2002; Ord. 773, passed 3-28- 2022)

§ 95.37 KEY BOXES.

The Minnesota State Fire Code (MSFC), § 506.1 is amended by the following: Key Boxes:

(A) Will be located near the front entrance of any commercial building at six feet above finished grade, or as approved by the Fire Code Official;

(B) Additional boxes may be used at more than one location when required because of the size of the building, number of keys, or other special hazard as required by the AHJ; and

(C) The box shall be of an approved vendor and model as approved by the Fire Code Official.

(Ord. 768, passed 1-24-2022)

§ 95.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person who shall violate any of the provisions of §§ 95.01 through 95.03 hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with an order as affirmed or modified by the City Council or by a court of competent jurisdiction within the time fixed herein, shall severally for each and every violation and noncompliance respectively be guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law. The imposition of penalty for any violation shall not excuse the violation or permit it to continue; and all persons shall be required to correct or remedy the violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(2) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Prior Code, § 5-1-9)

(C) Any person violating any provision of §§ 95.30 through 95.36 is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 5-4-8)

(Ord. 358, passed 1-8-2001)

CHAPTER 96: PUBLIC GATHERINGS

Section

Neighborhood Block Parties

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NEIGHBORHOOD BLOCK PARTIES

§ 96.01 PURPOSE.

The City Council finds that reasonable regulations of, and allowances for, temporary gatherings held in a section of street contained within a neighborhood are necessary because of the impact such activities may have on a specific area.

(Prior Code, § 3-17-1)

§ 96.02 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BLOCK PARTY. A temporary gathering held on a barricaded public street contained within a residential neighborhood.

(Prior Code, § 3-17-2)

§ 96.03 PERMIT REQUIRED.

No person shall engage or participate in, aid, form, or hold any block party unless a permit has been properly obtained from the city.

(Prior Code, § 3-17-3) Penalty, see § 10.99

§ 96.04 PERMIT APPLICATION.

(A) A person seeking the issuance of a block party permit shall file an application with the city on an application form prescribed by the City Clerk. An application shall be filed with the city not less than 14 days nor more than 60 days before the proposed date of the event.

(B) With the printed application form, the applicant shall provide a site plan depicting the location of all proposed facilities and equipment and the proposed street segments to be closed.

(C) Within seven days of receipt of permit, the applicant shall be provided a list of persons to be notified of the proposed event. All parties on the list shall be notified within seven days of the event in writing by the applicant. The applicant shall notify the city upon completion of the notification.

(D) No permits shall be issued to applicants that cannot demonstrate compliance with all provisions of this subchapter or who have had block parties previously terminated by police action.

(E) The applicant shall agree to indemnify and hold harmless the city, its agents, and employees from any and all claims, demands, actions, or cause of action of whatsoever nature or character arising out of or by reason of, the conduct of the block party in any respect, including, but not limited to, costs, attorney’s fees, expenses, and the like, incurred in connection with the defense or settlement of any claims for injuries or damage resulting from or connected with the block party.

(Prior Code, § 3-17-4)

§ 96.05 FEES.

Fees are as adopted in the fee schedule, Chapter 36, and set annually by the City Council.

(Prior Code, § 3-17-5)

§ 96.06 GENERAL PROVISIONS.

(A) To promote public safety and to ensure adequate access, no more than one block or section of road shall be barricaded for the duration of the event.

(B) Barricades shall be placed at either end of the temporarily closed street section as directed by city staff. Barricades shall be placed in a manner to allow for access by emergency vehicles. A ten-foot wide lane shall be free from barricades, equipment, and devices throughout the barricaded street section.

(C) Only local roads may be closed or barricaded for a block party.

(D) A block party shall be limited to residents in the immediate affected area and their invited guests and not the general public.

(E) Parties shall be limited to a maximum of eight hours in duration and shall be conducted between 8:00 a.m. and 10:00 p.m.

(F) Noise and music levels shall not be audible beyond the area designated for the block party. The block party shall be in compliance with the city's noise ordinance (§ 130.09).

(G) The applicant shall be responsible for cleaning up after the event. The right-of-way shall be completely free of all materials, objects, or obstructions within one hour of the scheduled end of the event. The applicant shall remove the barricades from the street at the conclusion of the event and place in an area designated by city staff with the permit approval.

(H) Alcohol sales are prohibited.

(I) The consumption of alcohol in the right-of-way is prohibited.

(J) The applicant is responsible for any damages to the right-of-way and street surface.

(K) The city's authorized public safety agents are authorized to terminate any block party not in full compliance with all provisions of this subchapter, not in full compliance of all conditions of operation required at the time of approval, or being maintained as a public nuisance.

(Prior Code, § 3-17-6)

§ 96.07 APPLICATION REVIEW.

The City Clerk shall review the application and consider approval based on the following factors.

(A) The applicant has provided a complete submittal.

(B) The Wright County Sheriff's office has no objections to the content of the submission.

(C) The Fire Department has no objections to the content of the submission.

(D) The Public Works Director has no objections to the content of the submission and has the capabilities to handle the Department's obligations to administer the permit.

(E) The submission is in full compliance with all requirements of all city ordinances.

(F) There is adequate city staff available to ensure all aspects of this subchapter may be enforced and acted upon.

(G) There are no other extenuating circumstances that may endanger the health, safety, and general welfare of the city and its citizens.

(Prior Code, § 3-17-7)

§ 96.08 PERMIT ISSUANCE.

Upon issuing the permit, the City Clerk shall notify the applicant and provide a list of all conditions of approval and requirements for the permit. Copies of the approval shall be provided to all affected agencies and departments.

(Prior Code, § 3-17-8)

§ 96.09 REVOCATION OF PERMIT.

The city may revoke the permit at any time due to any violation of §§ 96.01 through 96.09, conditions of approval, or any emergency condition.

(Prior Code, § 3-17-9) (Ord. 505, passed 10-26-2009)

SPECIAL EVENT PERMITS

§ 96.20 PURPOSE.

The purpose of this permit is to apply procedures and standards to all special events that are planned for or which reasonably may be expected to attract more than 100 persons at any one time (including, but not limited to,

cultural events, musical events, celebrations, festivals, fairs, and carnivals) held on private property within the city, unless expressly exempted.

(Prior Code, § 3-19-1) (Ord. 646, passed 5-23-2016)

§ 96.21 PERMIT REQUIREMENTS.

(A) All special events subject to this subchapter shall have a permit for a special event reviewed and approved or approved with conditions by the City Clerk before conducting the special event.

(B) A temporary use permit for a special event authorized in accordance with this subchapter shall be limited to a maximum duration of 14 days per site per calendar year, unless otherwise specifically authorized by the City Clerk.

(C) Permits requiring use of city property shall require the review and approval of the City Council.

(D) Special events shall not operate before 7:00 a.m. or after 10:00 p.m. unless a special event permit (or other) for the activity has been approved by the City Council. The permit supersedes the provisions of § 130.09(B).

(Prior Code, § 3-19-2) (Ord. 646, passed 5-23-2016)

§ 96.22 EXEMPTIONS.

(A) On grounds of private residence. Special events or activities occurring within, or on the grounds of, a private residence or on the common areas of a single-family attached, townhouse, two- to four-family, or multi-family residential development.

(B) Event sponsored by city or state. Any event sponsored in whole or in part by the city or state.

(C) Event or activity at site intended for such event or activity. Any organized activities conducted at sites or facilities typically intended and used for such activities. Examples of the exempt activities include, but are not limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; fairs and carnivals at fairgrounds; wedding services conducted at reception halls, or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted at religious institutions.

(D) Event approved as part of another permit. Temporary special events that are expressly approved as part of another permit shall not require separate review under this subchapter.

(Prior Code, § 3-19-3) (Ord. 646, passed 5-23-2016)

§ 96.23 STANDARDS.

In addition to the general temporary use criteria to be reviewed with the permit application, the following standards shall also apply.

(A) False or material misleading information. The application shall be certified by the applicant as not containing intentionally false or materially misleading information.

(B) Unreasonable risk. There is a finding that the special event would not create an unreasonable risk of significant:

(1) Damage to public or private property, beyond normal wear and tear;

(2) Injury to persons;

(3) Public or private disturbance or nuisances;

(4) Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;

(5) Additional and impracticable or unduly burdensome police, fire, trash removal, maintenance, or other public services demands; and/or

(6) Other adverse effects upon the public health, safety, or welfare.

(C) Location cannot be accommodated. The special event shall not be of such a nature, size, or duration that the particular location requested cannot reasonably accommodate the event.

(D) Time permitted or reserved for other activities. The special event shall not conflict with another permitted special event at the same location in a manner that will negatively impact the public health, welfare, or safety.

(Prior Code, § 3-19-4) (Ord. 646, passed 5-23-2016)

§ 96.24 CONDITIONS.

(A) In approving the permit for the special event, the City Clerk is authorized to impose conditions upon the issuance of the permit as may be necessary to reduce or minimize any potential adverse impacts upon other

property in the area, as long as the condition relates to a situation created or aggravated by the proposed special event.

(B) The City Clerk is authorized, where appropriate, to require:

(1) Provision of temporary parking facilities, including vehicular access and egress;

(2) Control of nuisance factors, such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;

(3) Regulation of temporary buildings, structures, and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;

(4) Provision of sanitary and medical facilities;

(5) Provision of solid waste collection and disposal;

(6) Provision of security and safety measures;

(7) Use of an alternative location or date for the proposed special event;

(8) Modification or elimination of certain proposed activities;

(9) Regulation of operating hours and days, including limitation of the duration of the special event to a shorter time period than that requested or specified in this section; or

(10) Submission of a performance guarantee to ensure that any temporary facilities or structures used for the proposed special event will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.

(Prior Code, § 3-19-5) (Ord. 646, passed 5-23-2016)

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Chapter

110. ALCOHOL

111. PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

112. BUSINESS LICENSES AND REGULATIONS

113. AMUSEMENTS

114. TELECOMMUNICATIONS

115. CABLE SERVICE

116. SIDEWALK CAFÉS

117. THERAPEUTIC MASSAGE ENTERPRISES AND MASSAGE THERAPISTS

CHAPTER 110: ALCOHOL

Section

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BEER

§ 110.001 PROVISIONS OF STATE LAW ADOPTED.

The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provisions on sales pertaining to the retail sale, distribution, and consumption of non-intoxicating liquor are hereby adopted and made a part of this subchapter as if fully set out herein except as modified herein.

(Prior Code, § 3-1-1)

§ 110.002 LICENSE REQUIRED.

(A) No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale any beer within the city without first having received a license as hereinafter provided. Licenses shall be of two kinds:

(1) Retail “on-sale”; and

(2) Retail “off-sale”.

(B) “On-sale” license shall be granted only to bona fide clubs, beer stores, restaurants, theaters, and hotels where food is prepared and served for consumption on the premises. “On-sale” licenses shall permit the sale of beer for consumption on the premises only.

(C) “Off-sale” licenses shall permit the sale of beer at retail in the original package for consumption off the premises only.

(Prior Code, § 3-1-2)

§ 110.003 APPLICATIONS FOR LICENSE.

(A) Form. Every application for a license to sell beer shall be made on a form supplied by the city and shall state the name of the applicant, his or her age, representations as to his or her character with such references as may be required, his or her citizenship, whether the application is for “on-sale” or “off-sale”, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he or she has been in that business at that place, and other information as the City Council may require from time to time. It shall be unlawful to make any false statement in an application. Applications shall be filed with the City Clerk.

(B) Financial responsibility. The liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter, without having on file with the city at all times effective proof of financial responsibility, is a cause for revocation of the license.

(Prior Code, § 3-1-3) Penalty, see § 110.999

§ 110.004 LICENSE FEES.

(A) Each application for a license shall be accompanied by a receipt from the city for payment in full of the required fee for the license. All fees shall be paid into the General Fund of the city. Upon rejection of any application for a license, the city shall refund the amount paid. All licenses shall expire on the last day of June in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rata fee.

(B) The annual fee for an “on-sale” license shall be in the fee schedule ordinance adopted by the City Council. The annual fee for an “on-sale” extended hours license shall be set forth by the state. The annual fee for an “off-sale” license shall be on a fee schedule adopted by the Council.

(C) No part of the fee paid for any license issued under this subchapter shall be refunded where a license is revoked, but there shall be refunded a pro-rata portion of the fee for the unexpired period of the license upon cancellation.

(Prior Code, § 3-1-4) (Ord. 107, passed 11-23-1981; Ord. 394, passed 7-14-2003)

Cross-reference:

Fee schedule, see Chapter 36

§ 110.005 GRANTING OF LICENSE.

(A) The City Council shall investigate all facts set out in the application. After the investigation, the Council shall grant or refuse the application in its discretion.

(B) Each license shall be issued to the applicant only and shall not be transferable to another holder.

(C) Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the City Council.

(Prior Code, § 3-1-5) (Ord. 394, passed 7-14-2003)

§ 110.006 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to any person:

(A) Under 21 years of age, or as stipulated in state statutes;

(B) Who has been convicted of a felony or any law of the state or local ordinance relating to the manufacture or transportation of intoxicating liquors;

(C) Who is a manufacturer of beer or who is interested in the control of any place where beer is manufactured;

(D) Who is not of good moral character;

(E) Who is or during the period of this license becomes the holder of a federal retail liquor dealer’s special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him or her a local license to sell intoxicating liquor at such place;

(F) Who is not the proprietor of the establishment for which the license is issued; or

(G) Who is not resident of the state.

(Prior Code, § 3-1-6) (Ord. 575, passed 3-11-2013)

§ 110.007 PLACES INELIGIBLE FOR LICENSE.

(A) No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this subchapter, or of the state beer or

liquor law, or where any license hereunder has been revoked for cause until one year has elapsed after the conviction of revocation.

(B) No “on-sale” license shall be granted for any place within 1,000 feet of any public school or within 1,000 feet of any church.

(C) No “off-sale” license for non-intoxicating liquors shall be granted for any premises except those that operate primarily in the sale of food, beer, cigars, cigarettes, beverage, and soft drinks.

(Prior Code, § 3-1-7) (Ord. 17, passed 9-9-1976)

§ 110.008 CONDITIONS OF LICENSE.

Every license is subject to the conditions in the following divisions and all other provisions of this subchapter, and of other applicable ordinance, state law, or regulation.

(A) Every license shall be granted subject to the conditions in the following divisions and all other provisions of this subchapter and of any other applicable provisions in this code.

(B) All licensed premises shall have the license posted in a conspicuous place at all times.

(C) No beer shall be sold or served to any intoxicated person or to any person under 21 years of age, or as stipulated in state statutes.

(D) No minor under 18 shall be permitted to sell or serve beer in an “on-sale” establishment.

(E) No gambling or any gambling device shall be permitted on any licensed premises.

(F) No manufacturer for wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of M.S. § 340A.403, subd. 3, as it may be amended from time to time. No retail license and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer, and no manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

(G) No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer’s special tax stamp unless he or she is licensed under the laws of the state to sell intoxicating liquors.

(H) No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on the

licensed premises or service any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquor for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this subchapter.

(I) Any peace officer shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquors found on the licensed premises.

(J) Every licensee shall be responsible for the conduct of the place of business and shall maintain conditions of sobriety and order.

(K) Every licensee shall be prohibited from conducting business on the premises from 2:00 a.m. to 6:00 a.m., Monday through Sunday inclusive. Presence of customers on the premises is not permitted between the hours of 2:30 a.m. to 6:00 a.m., Monday through Sunday inclusive.

(L) All license holders may be subject to alcohol compliance checks. Civil penalties for failing a compliance check and providing alcohol to minors are assessed as follows:

(1) First violation: amount as stated in the current fee schedule;

(2) Second violation within two years: amount as stated in the current fee schedule; and

(3) Third violation within two years: amount as stated in the current fee schedule (with no mandatory revocation of license).

(Prior Code, § 3-1-8) (Ord. 394, passed 7-14-2003; Ord. 512, passed 4-12-2010; Ord. 575, passed 3-11-2013; Ord. 584, passed 5-28-2013) Penalty, see § 110.999

§ 110.009 DAYS AND HOURS OF SALES.

The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours. No sale of 3.2% malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday inclusive, nor between 2:00 a.m. and 8:00 a.m. on Sundays. An establishment serving 3.2% malt liquor on Sundays must obtain a Sunday license from the city.

(Prior Code, § 3-1-9) (Ord. 143, passed 10-22-1984; Ord. 394, passed 7-14-2003; Ord. 512, passed 4-12-2010; Ord. 625, passed 9-28-2015)

§ 110.010 CLUBS.

No club shall sell beer except to members and to guests in the company of members.

(Prior Code, § 3-1-10) Penalty, see § 110.999

§ 110.011 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

(A) No minor shall misrepresent his or her age for the purpose of obtaining beer.

(B) No person shall induce a minor to purchase or procure beer.

(C) No minor shall have beer in his or her possession with the intent to consume it at a place other than the household of his or her parent or guardian.

(D) No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors.

(Prior Code, § 3-1-11) Penalty, see § 110.999

§ 110.012 REVOCATION.

A license granted under the provisions of this subchapter shall be suspended or revoked by the City Council for the following reasons.

(A) In the event the licensee is convicted of a violation of this subchapter or any state law relating to the sale or consumption of 3.2% malt liquor, his or her license shall be suspended for a period of five days upon the first conviction.

(B) In the event the license holder is convicted a second time, his or her license shall be suspended for a period of 30 days.

(C) In the event the license holder shall be convicted for a third time, his or her license shall be revoked.

(D) The violation of any provision or condition of this subchapter by a beer licensee or his or her agent shall be grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer’s special tax stamp without a license to sell intoxicating

liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this subchapter may be revoked or suspended by the City Council after written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may suspend any license pending a hearing on revocation or suspension.

(Prior Code, § 3-1-12)

§ 110.013 BREW PUB, BREWER TAPROOMS, OR MICRODISTILLERY LICENSE.

A brew pub, brewer taproom, or microdistillery as defined and made eligible under state law may be issued "on-sale" and "off-sale" license subject to the terms and conditions established by state law and this code, and to any limitations imposed by the City Council. The license issued by the city must specify whether off-sale is permitted, the hours of operation, whether Sunday sales are permitted, and other conditions. The fees established by ordinance may reflect various license options authorized by law.

(Prior Code, § 3-1-13) (Ord. 625, passed 9-28-2015)

LIQUOR

§ 110.025 PROVISIONS OF STATE LAW ADOPTED.

The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provisions on sales, conditions of bonds of licenses, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are hereby adopted and made a part of this subchapter as if fully set out herein, except as modified herein.

(Prior Code, § 3-2-1)

§ 110.026 LICENSE REQUIRED.

(A) No person except wholesalers or manufacturers to the extent authorized under state license shall directly or indirectly deal in, sell, or

keep for sale any intoxicating liquor without first having received a license to do so as provided in this subchapter.

(B) Licenses shall be of three kinds:

(1) “On-sale” license;

(2) “Off-sale” license; and

(3) Club licenses.

(Prior Code, § 3-2-2) Penalty, see § 110.999

§ 110.027 APPLICATION FOR LICENSE.

(A) Form. Every application for a license to sell liquor shall be verified and filed with the City Clerk. It shall have stated the name of the applicant, age with references as may be required, citizenship, whether the application is for an “on-sale” or “off-sale”, the business in connection with which the proposed license shall operate and its location, whether applicant is owner and operator of the business, how long that business has been at that place, and other information as the City Council may require. In addition to containing such information, each application for a license shall be in the form prescribed by the Department of Public Safety and the city. Each application for a license hereunder shall be accompanied by a cashier’s check in the amount adopted by the Council which shall not be subject to refund and shall be paid for the purpose of defraying the expense of investigation of the applicant.

(B) Financial responsibility. The liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

(Prior Code, § 3-2-3) (Ord. 107, passed 11-23-1981; Ord. 162, passed 6-27-1988; Ord. 191, passed 5-1-1990)

§ 110.028 LICENSE FEES.

(A) Each application for a license shall be accompanied by a receipt from the city for payment in full of the required fee for the license. All fees shall be paid into the General Fund of the city. Upon rejection of any application for license, the city shall refund the amount paid.

(B) Licenses herein provided for shall expire June 30 following the issuance thereof and if issued for less than one year shall be pro-rated on a quarterly basis.

(C) The annual fee for an “on-sale” license shall be adopted by the City Council except as stated in division (D) below. The annual fee for a special club license shall be a fee schedule adopted by the Council. The annual fee for an extended hours license shall be set forth by the state.

(D) Licenses in effect before annexation in the annexed area will be brought up to present fee at increase of $250 per year.

(E) No refund of any fee shall be permitted except as authorized under M.S. § 340A.408, as it may be amended from time to time.

(Prior Code, § 3-2-4) (Ord. 107, passed 11-23-1981; Ord. 394, passed 7-14-2003)

§ 110.029 GRANTING OF LICENSES.

The City Council shall investigate all facts set out in the application. After the investigation, the Council shall grant or refuse the application in its discretion. Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application. No license may be transferred to another person or to another place without the approval of the Council.

(Prior Code, § 3-2-5) (Ord. 394, passed 7-14-2003)

§ 110.030 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to or held by any person made ineligible for a license by state law.

(Prior Code, § 3-2-6)

§ 110.031 PLACES INELIGIBLE FOR LICENSE.

(A) No “on-sale” license shall be granted to any person who does not have invested or does not propose to invest in the fixtures and structure of the proposed on-sale establishment, exclusive of land, an amount of at least $200,000. The City Council may provide for an independent appraisal at applicant’s expense as an aid in determining the value of the premises. In the event this requirement as to investment is not complied with within one year from the date of issuance of the license, the license may be revoked.

(B) No “on-sale” license shall be granted to a restaurant that does not meet the following minimum standards as determined by the City Council.

(1) The restaurant shall have seating capacity for at least 50 guests in its formal dining area.

(2) The restaurant shall have a full-service menu available with meals prepared on site within a state’s Department of Health licensed commercial kitchen each day the establishment is open for business.

(3) All meals shall be regularly served at tables to the general public and shall employ an adequate staff to provide the usual and suitable services to its guests.

(Prior Code, § 3-2-7) (Ord. 94, passed 3-9-1981; Ord. 319, passed 10-26-1998; Ord. 394, passed 7-14-2003; Ord. 453, passed 1-22-2007)

§ 110.032 CONDITIONS OF LICENSE.

Every license shall be granted subject to the conditions in the following divisions and all other provisions of this subchapter, and of any other applicable provisions of this code or state law.

(A) Every licensee shall be responsible for the conduct of his or her place of business and the conditions of sobriety and order in it.

(B) Any peace officer, health officer, or any properly designated officer or employee of the city shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a warrant.

(C) Every licensee shall be prohibited from conducting business on the premises from 2:00 a.m. to 6:00 a.m., Monday through Sunday inclusive. Presence of customers on the premises is not permitted between the hours of 2:30 a.m. to 6:00 a.m., Monday through Sunday inclusive.

(D) All real estate taxes assessed against the licensed premises and all personal property taxes assessed against any personal property located in, on, or upon the licensed premises shall be paid or caused to be paid when due by the licensee, provided, however, that in the event the licensee and/or the owner of the licensed premises shall duly contest the validity and/or amount of any real estate or personal property tax according to law, the tax need not be paid until 30 days after the final judicial determination of the validity and/or amount of the tax.

(E) No license shall be issued for premises located in an area wherein the use of the premises is prohibited by the zoning code, nor within an area

where the sales are forbidden by state law or any other ordinance of the city.

(F) One-half of all additional “on-sale” liquor licenses available for issuance by the city shall be reserved for issuance to qualifying hotels, motels, or restaurants within the Central Community District (CCD) as defined by the official zoning map.

(G) All license holders may be subject to alcohol compliance checks conducted under a resolution adopted by City Council in 2005. This agreement sets civil penalties for failing a compliance check and providing alcohol to minors. Liquor administrative fines are assessed as follows:

(1) First violation: amount as stated in the current fee schedule;

(2) Second violation within two years: amount as stated in the current fee schedule; and

(3) Third violation within two years: amount as stated in the current fee schedule (without mandatory revocation of license).

(Prior Code, § 3-2-8) (Ord. 275, passed 8-14-1995; Ord. 319, passed 10-26-1998; Ord. 394, passed 7-14-2003; Ord. 513, passed 4-12-2010; Ord. 575, passed 3-11-2013; Ord. 584, passed 5-28-2013)

§ 110.033 DAYS AND HOURS OF SALES.

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours.

(B) No sale of intoxicating liquor for consumption on the licensed premises may be made between 2:00 a.m. and 8:00 a.m. on Monday through Saturday inclusive, or between 2:00 a.m. and 8:00 a.m. on Sundays. Sales after 2:00 a.m. on Sunday are unlawful unless the establishment has obtained a Sunday liquor license in accordance with state law.

(Prior Code, § 3-2-9) (Ord. 513, passed 4-12-2010; Ord. 625, passed 9-28-2015) Penalty, see § 110.999

§ 110.034 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

(A) No minor shall misrepresent his or her age for the purpose of obtaining intoxicating liquor.

(B) No person shall induce a minor to purchase or procure liquor.

(C) No liquor shall be sold or consumed on a public highway or in an automobile.

(D) No person shall consume any intoxicating liquor on any public land in the city except by special permit granted by the city.

(Prior Code, § 3-2-10) (Ord. 513, passed 4-12-2010) Penalty, see § 110.999

§ 110.035 REVOCATION.

The City Council may suspend or revoke any liquor license for violation of any provision or condition of the provisions hereof or any state law regulating the sale of intoxicating liquor or any false statement in the application.

(Prior Code, § 3-2-11)

MUNICIPAL LIQUOR STORES

§ 110.050 DISPENSARY ESTABLISHED: PLACES TO DRINK.

There is hereby established a municipal liquor dispensary for the off-sale of intoxicating liquor. No liquor may be sold off-sale at retail elsewhere in the city, unless otherwise authorized in this subchapter. No person shall consume liquor in a public park or on a public street.

§ 110.051 LOCATION AND OPERATION.

(A) Location and employees. A municipal liquor dispensary shall be at such place at the City Council shall determine and may be either leased or owned by the city. It shall be in the charge of a person known as the manager, who shall have such assistants as may be necessary. All employees, including the manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store.

(B) Dispensary Fund. A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the dispensary shall be paid and from which all operating expenses shall be paid. Any surplus accumulating in this Fund may, from time to time, be transferred to the General Fund by resolution of the City Council and expended for any municipal purpose.

§ 110.052 HOURS OF OPERATION.

The hours of operation and days of sale shall be those set by M.S. Ch. 340A, as it may be amended from time to time, except that the City Council may, by ordinance or resolution, provide for more restrictive hours. The dispensary shall not be open for business of any kind during the hours when sales of intoxicating liquor are prohibited.

(Prior Code, § 3-3-5) (Ord. 143, passed 10-22-1984; Ord. 177, passed 6-26-1989; Ord. 668, passed 6-12-2017)

§ 110.053 REGULATIONS.

(A) No business other than the sale of liquor shall be carried on in the dispensary except the retail sale of cigars, cigarettes, all forms of tobacco, beer, and soft drinks, both on-sale and off-sale.

(B) No pool or billiard table shall be kept in any part of the dispensary.

(C) No person shall gamble on the premises and no gambling of any character shall be permitted thereon.

(D) No minor shall be permitted to remain on the dispensary premises.

(E) No liquor or beer shall be sold or served to a minor directly or indirectly.

(F) No minor shall misrepresent his or her age for the purpose of obtaining liquor or beer.

(G) No liquor or beer shall be served or sold to an intoxicated person.

(H) No person of known immoral character and no disorderly person shall be permitted on the dispensary premises.

(Prior Code, § 3-3-6) (Ord. 394, passed 7-14-2003) Penalty, see § 110.999

§ 110.054 ENFORCEMENT.

It shall be the duty of all police officers of the city to enforce the provisions of this subchapter and to search the premises and seize evidence of law violation and preserve the same as evidence against any person alleged to be in violation of this subchapter and to prepare the necessary processes and papers therefor.

(Prior Code, § 3-3-7)

LIQUOR BY THE DRINK

§ 110.070 LICENSE REQUIRED.

It shall be unlawful for any private club or public place, directly or indirectly, or upon any pretense, or by any device, to allow the consumption or display of intoxicating liquor or the serving of any liquor for the purpose of mixing with intoxicating liquor without first having obtained a permit therefor from the Department of Public Safety as provided in M.S. Ch. 340A, as it may be amended from time to time, and a license therefor from the city.

(Prior Code, § 3-4-1) Penalty, see § 110.999

§ 110.071 APPLICATION FOR LICENSE.

(A) Form. Every application for a license under this subchapter shall be made on a form supplied by the city and shall state the name of the applicant, his or her age, representations as to his or her character, with such reference as may be required, his or her citizenship, the business in connection with which the proposed license will operate and its location, whether applicant is owner or operator of the business, how long he or she has been in that business at that place, and other information that the City Council may require from time to time. It shall be unlawful to make any false statement in an application. Applications shall be filed with the City Clerk.

(B) Financial responsibility. The liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

(Prior Code, § 3-4-2) Penalty, see § 110.999

§ 110.072 LICENSE FEES.

(A) An application for a license shall be accompanied by a receipt from the City Clerk for payment in full of the required fee for the license. Upon rejection of any application for license, the Clerk shall refund the amount paid less $25, which shall be retained as a handling charge for the application.

(B) All licenses shall expire on the last day of June in each year. Each license shall be issued for a period of one year, except if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rata fee. In computing the fee, any unexpired fraction of a month shall be counted as one month.

(C) The annual fee for the license shall be a fee schedule adopted by the City Council. The annual fee for an extended hours license shall be as set forth by the state.

(D) Notwithstanding any other provision of law, the City Council may, upon proper application as stipulated in § 110.071, issue a permit for the display and consumption of intoxicating liquor and the serving of any liquid for the purpose of mixing with intoxicating liquor for a period of one day. No more than five permits may be issued in a single year. No more than two permits shall be issued to the same organization or an affiliate in a single year. The fee for the permit shall be set from time to time by the Council but shall not exceed $25. All permits issued under this provision shall be approved by the state's Department of Public Safety. The permit issued pursuant to this section shall be valid only for the day indicated on it.

(E) Applicants receiving authorization under § 110.073 to be a liquor provider at the community center shall pay a fee to the city as set by City Council resolution.

(Prior Code, § 3-4-3) (Ord. 107, passed 11-23-1981; Ord. 116, passed 6-28-1982; Ord. 332, passed 9-13-1999; Ord. 394, passed 7-14-2003)

§ 110.073 CONDITIONS OF LICENSE.

Every licensee shall not conduct business on the premises between the hours of 2:00 a.m. and 6:00 a.m., Monday through Sunday inclusive. Presence of customers on the event premises is not permitted between the hours of 2:30 a.m. and 6:00 a.m., Monday through Sunday inclusive.

(Prior Code, § 3-4-4) (Ord. 394, passed 7-14-2003; Ord. 575, passed 3-11-2013) Penalty, see § 110.999

§ 110.074 DAYS AND HOURS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours.

(B) No sale of intoxicating liquor by the drink for consumption on the licensed premises may be made between 2:00 a.m. and 8:00 a.m. on

Monday through Saturday inclusive. No sale of intoxicating liquor by the drink for consumption on the licensed premises may be made between 2:00 a.m. and 8:00 a.m. on Sundays. Sales after 2:00 a.m. on Sunday are unlawful unless the liquor license holder has obtained a Sunday liquor license in accordance with state law.

(C) No establishment licensed under M.S. § 340A.414, as it may be amended from time to time, or § 110.072(D) may permit a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor between 1:00 a.m. and 8:00 a.m. on Monday through Saturday inclusive, and between 1:00 a.m. and 12:00 noon on Sundays.

(Prior Code, § 3-4-5) (Ord. 575, passed 3-11-2013; Ord. 625, passed 9-28-2015) Penalty, see § 110.999

§ 110.075 SPECIAL PROVISIONS: SPORTS, CONVENTIONS, OR CULTURAL FACILITIES; COMMUNITY FESTIVALS.

(A) Distributing liquor at public gatherings. The city may authorize the holder of a retail “on-sale” intoxicating liquor license issued by the city or by an adjacent municipality to dispense intoxicating liquor at any convention, banquet, conference, meeting, or social affair conducted in the community center. The licensee (liquor provider) must be engaged to dispense intoxicating liquor at the event held by a person or organization permitted to use the premises and may dispense intoxicating liquor only to any person attending the event. The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises.

(B) Community center liquor provider authorization. Authority to be a liquor provider will be granted by the City Council on an annual basis, term to run January 1 to December 31. The Community Center Director will accept applications, screen, and make the formal request for authorization to the Council. Applications for authorization to become a liquor provider will be accepted throughout the year, but will require a six to eight week waiting period for approval. If approved, the term will expire at the end of the calendar year, December 31.

(C) Termination of liquor provider authorization. The City Administrator may suspend or terminate the license of a liquor provider for conducting illegal operations, for maintaining insufficient insurance coverage, for loss or suspension of its retail liquor license, and for violating the policies set forth in the city’s Community Center Policy Manual. The liquor provider may appeal any suspension or termination to the City Council within ten days after receipt of notice of suspension termination. The appeal shall be

served on the City Administrator and the Council shall commence a hearing within 21 days after receipt of the notice of appeal.

(Prior Code, § 3-4-6) (Ord. 332, passed 9-13-1999)

“ON-SALE” WINE LICENSE

§ 110.090 PROVISIONS OF STATE LAW ADOPTED.

The provisions of M.S. Ch. 340A, as it may be amended from time to time, adopted and made a part of this subchapter as if set out in full.

(Prior Code, § 3-11-1)

§ 110.091 WINE LICENSES.

An “on-sale” wine license authorizes the sale of wine not exceeding 14% alcohol by volume for consumption on the licensed premises only in conjunction with the sale of food. An “on-sale” wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. For purposes of this subchapter, a RESTAURANT means an establishment under the control of a single proprietor or manager having appropriate facilities for serving meals and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests.

(Prior Code, § 3-11-2)

§ 110.092 LICENSE REQUIRED FOR ON-SALE OF WINE.

No person shall sell any wine not exceeding 14% alcohol by volume by the glass without an “on-sale” wine license as provided herein or an “on-sale” intoxicating liquor license as provided in §§ 110.025 through 110.035.

(Prior Code, § 3-11-3) Penalty, see § 110.999

§ 110.093 APPLICATION FOR LICENSE.

(A) Form. Every application for “on-sale” wine license shall state the name of the applicant, age, representations as to character with such references as the City Council may require, citizenship, the restaurant in

connection with which the proposed licensee will operate and its location, whether the applicant is owner and operator of the restaurant, how long the restaurant business has been at that place, and other information as the Council may require from time to time. In addition to containing the information, the application shall be in a form prescribed by the Liquor Control Director and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

(B) Liability insurance. Prior to the issuance of a wine license, the applicant shall file with the City Clerk a liability insurance policy in the amount of $50,000 coverage for bodily injury for one person in any one occurrence; $100,000 coverage for bodily injury for two or more persons in any one occurrence; $10,000 because of injury to or destruction of others in any one occurrence; $50,000 for loss of means of support of any one person in any one occurrence; and $100,000 for loss of means of support of two or more persons in any one occurrence; and shall comply with the provisions of M.S. § 340A.409, as it may be amended from time to time, relating to liability insurance policies.

(C) Approval of security. The security offered under division (B) above shall be approved by the City Council and the State Liquor Control Director. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the city at all times effective security as required in division (B) above is a cause for revocation of the license.

(Prior Code, § 3-11-4) (Ord. 369, passed 1-28-2002)

§ 110.094 LICENSE FEES.

(A) Amount. The annual fee for a wine license shall be in the amount duly established by the Council from time to time. The annual fee for an extended license shall be as set forth by the state.

(B) Payment. Each application for a wine license shall be accompanied by a receipt from the City Clerk for payment in full of the license fee. All fees shall be paid into the General Fund. If an application for a license is rejected, the Clerk shall refund the amount due.

(C) Term. Each license shall be issued for a period of one year. Every license shall expire on June 30.

(D) Refunds. No refund of any fee shall be made except as authorized by statute.

(Prior Code, § 3-11-5) (Ord. 394, passed 7-28-2003)

§ 110.095 GRANTING OF LICENSES.

(A) Investigation and issuance. The City Council shall investigate all facts set out in the application. After the investigation, the Council shall, in its discretion, grant or refuse the application. No wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the State Liquor Control Director.

(B) Persons and premises licensed; transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license.

(Prior Code, § 3-11-6) (Ord. 394, passed 7-14-2003)

§ 110.096 PERSONS INELIGIBLE FOR LICENSE.

No wine license shall be granted to any person made ineligible for a license by state law.

(Prior Code, § 3-11-7)

§ 110.097 PLACES INELIGIBLE FOR LICENSE.

(A) General prohibition. No wine license shall be issued for any restaurant ineligible for a license under state law.

(B) Delinquent taxes and charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

(Prior Code, § 3-11-8) (Ord. 369, passed 1-28-2002)

§ 110.098 CONDITIONS OF LICENSE.

(A) In general. Every license is subject to the conditions in the following divisions and all other provisions of this subchapter, and of other applicable ordinance, state law, or regulation.

(B) Licensee’s responsibility. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the

licensee shall be liable to all penalties provided by this subchapter and the law equally with the employee.

(C) Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

(D) Display during prohibited hours. No licensee shall display wine to the public during hours when the sale of wine is prohibited.

(E) Federal stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

(F) Compliance checks. All license holders may be subject to alcohol compliance checks. This agreement sets civil penalties for failing a compliance check and providing alcohol to minors. Liquor administrative fines are assessed as follows:

(1) First violation: amount as stated in the current fee schedule;

(2) Second violation within two years: amount as stated in the current fee schedule; and

(3) Third violation within two years: amount as stated in the current fee schedule (without mandatory revocation of license).

(Prior Code, § 3-11-9) (Ord. 584, passed 5-28-2013) Penalty, see § 110.999

§ 110.099 DAYS AND HOURS OF SALE.

(A) No sale of wine under this license shall be made on the premises between the hours of 2:00 a.m. and 8:00 a.m., Monday through Saturday inclusive, or on any Sunday between the hours of 2:00 a.m. and 8:00 a.m.

(B) The presence of customers is not allowed on the premises between the hours of 2:30 a.m. and 6:00 a.m., Monday through Sunday inclusive.

(Prior Code, § 3-11-10) (Ord. 369, passed 1-28-2002; Ord. 394, passed 7-14-2003; Ord. 575, passed 3-11-2013; Ord. 625, passed 9-28-2015) Penalty, see § 110.999

§ 110.100 COMBINATION WINE/3.2% MALT LIQUOR ON-SALE OPTION.

(A) Provided that an applicant meets or exceeds the requirements of this subchapter and the requirements of §§ 110.001 through 110.013, which pertain to 3.2% malt liquor on-sale, the applicant may apply for a single license authorizing the sale and consumption of wine not to exceed 14%

alcohol by volume and beer not to exceed 3.2% alcohol by volume. (Intoxicating malt liquor may be sold on premises holding both a 3.2% malt liquor “on-sale” license and a wine license.)

(B) Fees for the combination license shall be according to a fee schedule adopted by the City Council. The annual fee for an extended hours combination license shall be in an amount established by the state.

(Prior Code, § 3-11-11) (Ord. 369, passed 1-28-2002; Ord. 394, passed 7-14-2003)

Cross-reference:

Fee schedule, see Chapter 36

§ 110.101 SUSPENSION AND REVOCATION.

The City Council may either suspend for not to exceed 60 days or revoke any “on-sale” wine license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor, or any of the provisions of this subchapter. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 through 14.62 and 14.69, as they may be amended from time to time.

(Prior Code, § 3-11-12)

§ 110.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any employee of the dispensary willfully violating any provision hereof or any provision of the state laws relating to gambling or the sale of intoxicating liquor or beer shall be discharged.

(Prior Code, § 3-3-7)

(C) Any person violating any provision of §§ 110.090 through 110.101 is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 3-11-13)

(Ord. 128, passed 11-4-1983; Ord. 358, passed 1-8-2001)

CHAPTER 111: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

Section

Peddlers, Solicitors, and Transient Merchants

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PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

§ 111.01 PURPOSE.

This subchapter is not intended to interfere with legitimate business activities of peddlers, solicitors, and transient merchants as the same are herein defined, whether same be local or interstate. These provisions are intended only to, as nearly as possible, ferret out the illegitimate or confidence operators and to regulate and control all those who would use their unique presence on property within the city, for purposes of harassment, nuisance, theft, or other unlawful activities.

§ 111.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. Any person who goes door to door, street to street, or place to place, to offer or display for sale, and delivering immediately upon sale, goods, wares, merchandise, or services transported with that person.

SOLICITOR. Any person who, for solely commercial sales purposes, goes door to door, street to street, or place to place, to obtain or attempt to obtain orders for goods, wares, merchandise, or services as shown or described by sample, catalog, or some other form, for which delivery or performance will occur at a later time.

TRANSIENT MERCHANT. Any person, who engages in, or transacts any temporary and transient business in the city, selling goods, wares, or merchandise; and, who, for the purpose of carrying on such business, hires, leases, occupies, or uses a building, structure, vacant or occupied lot, or railroad car for the exhibition and sale of such goods, wares, and merchandise. The term TRANSIENT MERCHANT does not include a seller or exhibitor in a firearms collector show involving two or more sellers or exhibitors.

§ 111.03 LICENSE OR REGISTRATION REQUIRED.

It is unlawful for any person to engage in business as a peddler or transient merchant the city without first obtaining a license therefor from the city. A license must be applied for at least ten days prior to the date when the activity to be carried on is to commence. The applicant shall completely fill out an application for a license as prepared by the city and pay the applicable license fee per the fee schedule ordinance. For peddler permit application, a background investigation will be required with fee prescribed per the fee schedule ordinance.

Penalty, see § 111.99

§ 111.04 APPLICATION FOR LICENSE.

(A) Application. Application for a license shall be made on a form provided by the city. All applications shall be signed by the applicant. Any fraud, misrepresentation, or false statement on the application shall constitute a violation of this subchapter. All applications shall include the following information:

(1) Name and driver’s license number or other acceptable identification of the person registering, including recent passport style photograph of applicant;

(2) Full address of the applicant’s permanent residence;

(3) Telephone number of the applicant’s permanent residence;

(4) Full legal name of any and all business operation(s) owned, managed, or operated by the applicant, or for which the applicant is an employee or agent;

(5) Full address of the applicant’s regular place of business (if any);

(6) Any and all business related telephone number(s) of the applicant;

(7) The type of business for which the applicant is applying for a license;

(8) The dates during which the applicant intends to conduct business and the number of days he or she will be conducting business in the city;

(9) Any and all address(es) and telephone number(s) where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;

(10) A statement as to whether or not the applicant has been convicted of any felony, gross misdemeanor, or misdemeanor, for violation of any state or federal statute or any local ordinance, other than traffic offenses;

(11) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;

(12) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;

(13) A general description of the items to be sold or services to be provided;

(14) All additional information deemed necessary by the City Council;

(15) A list of all individuals to be covered by a group license;

(16) Source of items sold and the item's location at the time of licensing and time of sale;

(17) License plate and registration information for any vehicle to be used in conjunction with the licensed business and a description of the vehicle;

(18) Proof of any required state or county license for transient merchant activities (not applicable to door to door solicitations); and

(19) Written consent authorizing the city to request a criminal history background investigation for peddler permits in accordance with this code.

(B) Procedure.

(1) An application shall be determined to be complete only if all required information is provided. If the city determines that an application is incomplete, it shall inform the applicant of the information required to be provided prior to issuance of a license.

(2) The city shall review the application and order any investigation, including background investigations, necessary to verify the information provided with the application.

(3) The city shall either approve or deny the license within five business days after receipt of a complete application.

(4) If the application is denied, the applicant shall be notified in writing of the decision, the reason for the denial, and the applicant's right to appeal the denial by requesting, within seven days of the date of the denial, to be heard by the City Administrator, other designated staff or a Hearing Officer appointed by the City Council within 30 days of the date of the request.

(5) A license granted under this subchapter shall be valid until the date noted on the application.

§ 111.05 REGISTRATION REQUIRED FOR SOLICITORS.

(A) All solicitors shall be required to register with the city prior to engaging in activities. Registration shall be made on the same form required for a license application but no fee shall be required. Upon completion of the registration form, the city shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.

(B) All solicitors must carry proof of registration and photo identification in such a manner that the information is readily, continuously, and clearly visible.

(C) Individual and exempt organizations engaging in non-commercial door-to-door advocacy shall not be required to register or obtain a certificate of registration.

§ 111.06 CONDITIONS OF LICENSING; SEPARATE LICENSES AND REGISTRATION.

Each individual engaged as a peddler or person accompanying a licensee at work must secure a separate license. Each individual engaged as a solicitor or person accompanying a solicitor at work must separately register with the city. Licenses and registration are non-transferable. Proof of license or registration shall be displayed at all times.

§ 111.07 LICENSING AND REGISTRATION EXEMPTIONS.

The licensing and registration requirements of this subchapter shall not apply to:

(A) Any person selling or attempting to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm

or garden within the city. Such person must comply with the city's zoning ordinance and other applicable ordinances;

(B) Persons exercising that person's state or federal constitutional rights, except if that person's exercise of constitutional rights is merely incidental to a commercial activity;

(C) Daily newspaper sales;

(D) Persons selling personal property at wholesale to retailers; and/or

(E) Merchants or their employees or agents delivering goods in the regular course of business.

§ 111.08 LICENSE FEES.

License fees for peddler permits and transient merchant license shall be determined by the City Council and listed in the fee schedule ordinance.

§ 111.09 INELIGIBILITY FOR LICENSE.

The following shall be grounds for denying a license or registration under this subchapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required license;

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;

(C) The conviction of the applicant for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner that will not adversely affect the health, safety, and welfare of the residents of the city. Such violations shall include, but not be limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person; or

(D) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.

§ 111.10 PROHIBITED ACTIVITIES.

No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

(A) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;

(B) Conducting business in such a way as to create a threat to the health, safety, or welfare of any individual or the general public;

(C) Failing to provide proof of license or registration and identification when requested or using the license or registration of another person;

(D) Failing to display the certificate of registration or licensure provided by the city;

(E) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person;

(F) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive;

(G) Entering upon any premises or attempting to enter in or upon any premises wherein a sign or placard bearing the notice “peddlers or solicitors prohibited” or language similar thereto, is located;

(H) Selling or soliciting sales by transient merchants from public property or right-of-way or from private property unless he or she owns the property or has written permission from the owner; and

(I) Entering upon any residential premises for the purpose of carrying on the licensee’s or registrant’s trade or business between the hours of 7:00 p.m. and 12:00 p.m. of the following day, unless such person has been invited to do so by the owner or occupant thereof.

§ 111.11 IDENTIFICATION REQUIRED.

All solicitors, peddlers, and transient merchants must carry their city issued license or registration certificate when conducting the business or activity required to be licensed or registered under this subchapter and photo identification.

§ 111.12 SUSPENSION OR REVOCATION OF LICENSE OR REGISTRATION.

(A) Grounds. Any license or registration issued under this subchapter may be suspended or revoked at the discretion of the city for violation of any of the following:

(1) Fraud, misrepresentation, or incorrect statements on the application form;

(2) Fraud, misrepresentation, or false statements made during the course of the license activity;

(3) Conviction of any offense for which granting of a license could have been denied under this subchapter;

(4) Violation of any provision of this subchapter; or

(5) Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(B) Notice required. Prior to revoking or suspending any license or registration issued under this subchapter, the city shall provide the license holder or registrant with written notice of the alleged violation(s) and inform the licensee of the licensee's right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application or registration, or if no residential address is listed, the business address provided on the license application or registration.

(C) Hearing. Upon receiving the notice provided in division (B) above, the licensee or registrant shall have the right to request a hearing. If no request for a hearing is received by the city within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the city shall notify the licensee of its decision.

(D) Emergency suspension. If, in the discretion of the city, imminent harm to the health or safety of the public may occur because of the actions of a peddler, solicitor, or transient merchant licensed or registered under this subchapter, the city may immediately suspend the person's license or registration and provide notice of the right to hold a subsequent hearing as prescribed in division (B) above.

(E) Right to appeal. Any person whose license or registration is suspended or revoked under this section shall have the right to appeal that decision in court.

§ 111.13 MISDEMEANOR VIOLATION; ADMINISTRATIVE ENFORCEMENT.

Violation of any provision of this chapter shall be a misdemeanor or a code violation subject to administrative enforcement.

(Prior Code § 7-10-12)

§ 111.14 SEVERABILITY.

If any provision of this subchapter is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

PAWN SHOPS

§ 111.25 PURPOSE.

(A) The City Council finds that use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The City Council further finds that the pawn industry has outgrown the city's current ability to effectively or efficiently identify criminal activity related to pawn shops. The purpose of this subchapter is to prevent pawn businesses from being used as facilities for the commission of crimes, and to assure that the businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

(B) To help local law enforcement better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this subchapter also implements and establishes the required use of reporting to the system or systems as identified by the Wright County Sheriff's Office.

(Prior Code, § 3-15-1) (Ord. 738, passed 2-24-2020)

§ 111.26 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BILLABLE TRANSACTION. Every reportable transaction conducted by a pawnbroker except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession is a billable transaction.

PAWNBROKER. A person, partnership, or corporation who lends money on the security of pledged goods (items that are "left in pawn"), and/or purchases goods on the condition that they may be redeemed or repurchased by the seller for a fixed price, within a fixed period of time. To the extent that a PAWNBROKER'S business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this subchapter shall be applicable.

REPORTABLE TRANSACTION. Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment, or trade; or in which a pawn is renewed, extended, or redeemed; or for which a unique transaction number or identifier is generated by their point-of-sale software, is reportable except:

(1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of the merchandise, provided the pawnbroker must maintain a record of the purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record; and

(2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

(Prior Code, § 3-15-2) (Ord. 542, passed 1-9-2012)

§ 111.27 LICENSE REQUIRED.

No person shall engage in the business of pawnbroker at any location without a pawnbroker license for that location. No pawnbroker license may be transferred to a different location or a different person. Issuance of a license under this subchapter shall not relieve the licensee from obtaining any other licenses required to conduct business at the same or any other location.

(Prior Code, § 3-15-3) Penalty, see § 111.99

§ 111.28 APPLICATION REQUIRED.

(A) An application form provided by the City Clerk must be completed by every applicant for a new license or for renewal of an existing license.

(B) Every new applicant must provide all the following information:

(1) If the applicant is a sole proprietor:

(a) The name, place and date of birth, street resident address, and phone number of applicant;

(b) Whether the applicant is a citizen of the United States or resident alien;

(c) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used;

(d) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.01, as it may be amended from time to time;

(e) The street address at which the applicant has lived during the preceding five years;

(f) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five years;

(g) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions; and

(h) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in divisions (B)(1)(a) through (B)(1)(g) above.

(2) If the applicant is a partnership:

(a) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in division (B)(1) above;

(b) The name(s) of the managing partner(s) and the interest of each partner in the licensed business; and

(c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of the certificate must be attached to the application.

(3) If the applicant is a corporation or other organization:

(a) The name of the corporation or business form, and if incorporated, the state of incorporation;

(b) A true copy of the certificate of incorporation, articles of incorporation or association agreement, and by-laws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, as it may be amended from time to time, must be attached; and

(c) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in divisions (B)(1)(a) through (B)(1)(g) above.

(4) For all applicants:

(a) Whether the applicant holds a current pawnbroker, precious metal dealer, or secondhand goods dealer license from any other governmental unit;

(b) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit;

(c) The location of the business premises; and

(d) Other information as the City Council or issuing authority may require.

(Prior Code, § 3-15-4)

§ 111.29 APPLICATION EXECUTION.

(A) All applications for a license under this subchapter must be signed and sworn to under oath or affirmation by the applicant.

(B) If the application is that of a sole proprietor, it must be signed and sworn to by the person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

(C) Any falsification on a license application shall result in the denial of a license.

(Prior Code, § 3-15-5)

§ 111.30 PERSONS INELIGIBLE FOR A LICENSE.

No license under this subchapter will be issued to an applicant who is a sole proprietor, a partnership if the applicant has any general partner or managing partner, a corporation or other organization if the applicant has any manager, proprietor, or agent in charge of the business to be licensed, if the applicant:

(A) Is a minor at the time that the application is filed;

(B) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this subchapter as prescribed by M.S. § 364.03, subd. 3, as it may be amended from time to time; or

(C) Is not of good moral character or repute.

(Prior Code, § 3-15-6)

§ 111.31 LICENSE FEES.

(A) The annual license fees for licenses issued under this subchapter shall be as adopted by the City Council.

(B) The billable transaction license fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the City Council, and shall be reviewed and adjusted periodically. Licensees shall be notified in writing 30 days before any adjustment is implemented.

(C) Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this subchapter.

(Prior Code, § 3-15-7) (Ord. 357, passed 11-27-2000; Ord. 542, passed 1-9-2012)

§ 111.32 BOND REQUIRED.

Before a license will be issued, every applicant must submit a $5,000 bond on the forms provided by the licensing authority. All bonds must be

conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon 30 days' written notice to the city, which shall be served upon the licensing authority.

(Prior Code, § 3-15-8)

§ 111.33 RECORDS REQUIRED.

At the time of any reportable transaction other than renewals, extensions, or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by local law enforcement:

(A) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;

(B) The purchase price, amount of money loaned upon, or pledged therefor;

(C) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;

(D) Date, time, and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;

(E) Full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, including: sex, height, weight, race, color of eyes, and color of hair;

(F) The identification number and state of issue from any of the following forms of identification of the seller:

(1) Current valid Minnesota driver's license;

(2) Current valid Minnesota identification card; or

(3) Current valid photo identification card issued by another state or province of Canada.

(G) The signature of the person identified in the transaction;

(H) (1) Effective 60 days from the date of notification by local law enforcement of acceptable video standards, the licensee must also take a color photograph or color video recording of:

(a) Each customer involved in a billable transaction; and

(b) Every item pawned or sold that does not have an unique serial or identification number permanently engraved or affixed.

(2) If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. The photographs must be available to the Chief of Police or the Chief's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person orally that he or she is being videotaped and by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months.

(3) Effective 60 days from the date of notification by local law enforcement, licensees must fulfill the color photograph requirements in division (H) above by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in division (H) above.

(I) For renewals, extensions, and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction and the type of transaction; and

(J) The records must at all reasonable times be open to inspection by local law enforcement or state regulatory agencies. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

(Prior Code, § 3-15-9)

§ 111.34 DAILY REPORTS TO POLICE.

(A) Reporting transactions.

(1) Effective no later than 60 days after local law enforcement provides licensees with computerized record standards, licensees must submit every reportable transaction to local law enforcement daily in the following manner.

(2) Licensees must provide to local law enforcement all information required in § 111.33(A) through (F) and other required information by transferring it from their computer to the automated pawn system via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to local law enforcement daily.

(B) Billable transactions fees. Licensees will be charged for each billable transaction reported to local law enforcement.

(1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide local law enforcement printed copies of all reportable transactions along with the video tape(s) for that date by 12:00 the next business day.

(a) If the problem is determined to be in the licensee’s system and is not corrected by the close of the first business day following the failure, the licensee must provide the required reports as detailed in division (B)(1) above, and must be charged a $50 reporting failure penalty, daily, until the error is corrected; or

(b) If the problem is determined to be outside the licensee’s system, the licensee must provide the required reports in division (B)(1) above and resubmit all such transactions via modem when the error is corrected.

(2) If a licensee is unable to capture, digitize, or transmit the photographs required in § 111.33(H), the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to local law enforcement upon request.

(C) Technical problems. Regardless of the cause or origin of the technical problems that prevented the licensee from uploading his or her reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.

(D) Delay of implementation. Divisions (B)(1) through (B)(3) above notwithstanding, local law enforcement may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(Prior Code, § 3-15-10)

§ 111.35 RECEIPT REQUIRED.

(A) Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years.

(B) The receipt must include at least the following information:

(1) The name, address, and telephone number of the licensed business;

(2) The date and time the item was received by the licensee;

(3) Whether the item was pawned or sold or the nature of the transaction;

(4) An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;

(5) The signature or unique identifier of the licensee or employee that conducted the transaction;

(6) The amount advanced or paid;

(7) The monthly and annual interest rates, including all pawn fees and charges;

(8) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date;

(9) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller;

(10) The identification number and state of issue from any of the following forms of identification of the seller:

(a) Current valid Minnesota driver’s license;

(b) Current valid Minnesota identification card; or

(c) Current valid photo driver’s license or identification card issued by another state or province of Canada.

(11) Description of the pledger or seller including sex, approximate height, weight, race, color of eyes, and color of hair;

(12) The signature of the pledger or seller; and

(13) All printed statements as required by M.S. § 325J.04 subd. 2, as it may be amended from time to time, or any other applicable statutes.

(Prior Code, § 3-15-11)

§ 111.36 REDEMPTION PERIOD.

(A) Any person pledging, pawning, or depositing an item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the holding period, items may not be removed from the licensed location except as provided in § 111.43. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the police license inspector. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with § 111.33(I).

(B) Pawnbroker must return goods, or provide compensation for lost or damaged goods, upon payment of the full amount due, unless:

(1) The 60-day redemption period has expired; or

(2) The goods have been taken into custody by a court or by a law enforcement officer or agency.

(Prior Code, § 3-15-12) (Ord. 542, passed 1-9-2012)

§ 111.37 HOLDING PERIOD.

Any item purchased or accepted in trade by a licensee, but not involved in a pawn transaction, must not be sold or otherwise transferred for 31 days from the date of the transaction. An individual may redeem an item at any time during the holding period.

(Prior Code, § 3-15-13) (Ord. 542, passed 1-9-2012)

§ 111.38 POLICE ORDER TO HOLD PROPERTY.

Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. This initial or investigative hold shall be confirmed in writing within 72 hours and remains in effect for 15 days from the date of initial notification. Local law enforcement may, in writing, extend an investigative hold or independently order an item held for up to 90 days, or order the confiscation of an item identified as stolen or evidence in a criminal case.

(Prior Code, § 3-15-14) (Ord. 542, passed 1-9-2012)

§ 111.39 INSPECTION OF ITEMS.

At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises, in accordance with § 10.20, where the licensed business is located, including all off-site storage facilities as authorized in § 111.43, during normal business hours, except in an emergency for the purpose of inspecting the premises and inspecting the items, wares and merchandise and records therein to verify compliance with this subchapter and other applicable laws.

(Prior Code, § 3-15-15)

§ 111.40 LABEL REQUIRED.

Licensee must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop’s records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to local law enforcement, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

(Prior Code, § 3-15-16)

§ 111.41 PROHIBITED ACTS.

(A) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.

(B) No licensee may receive any goods from a person of unsound mind or an intoxicated person.

(C) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid state identification card, or current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.

(D) No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

(E) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another person has a security interest; with any licensee.

(F) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee shall give a false or fictitious name, nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another, to any licensee.

(Prior Code, § 3-15-17) Penalty, see § 111.99

§ 111.42 DENIAL, SUSPENSION, OR REVOCATION.

Any license under this subchapter may be denied, suspended, or revoked for one or more of the following reasons:

(A) The proposed use does not comply with any applicable zoning code;

(B) The proposed use does not comply with any health, building, building maintenance, or other provisions of this code of ordinances or state law;

(C) The applicant or licensee has failed to comply with one or more provisions of this subchapter;

(D) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;

(E) Fraud, misrepresentation, or bribery in securing or renewing a license;

(F) Fraud, misrepresentation, or false statements made in the application and investigation for, or in the course of, the applicant's business;

(G) Violation within the preceding five years of any law relating to theft, damage, or trespass to property, sale of a controlled substance, or operation of a business; or

(H) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this subchapter.

(Prior Code, § 3-15-18)

§ 111.43 BUSINESS AT ONLY ONE PLACE.

A license under this subchapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the police inspector may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with § 111.39. All provisions of this subchapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises that extends for more than six months.

(Prior Code, § 3-15-19)

§ 111.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

CHAPTER 112: BUSINESS LICENSES AND REGULATIONS

Section

Rental Housing Licensing

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RENTAL HOUSING LICENSING

§ 112.01 PURPOSE.

It is the purpose of this subchapter to protect the public health, safety, and welfare of the community at large and the residents of rental dwellings in the city and to ensure that rental housing in the city is decent, safe, and sanitary and is so operated and maintained as not to become a nuisance to the neighborhood or to become an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community. The operation of rental residential properties is a business enterprise that entails certain responsibilities. Owners and operators are responsible to take such reasonable steps as are necessary to ensure that the citizens of the city who occupy such units may pursue the quiet enjoyment of the

normal activities of life in surroundings that are: safe, secure, and sanitary; free from noise, nuisances, or annoyances; and free from unreasonable fears about safety of persons and security of property.

(Prior Code, § 3-16-1)

§ 112.02 APPLICABILITY; SCOPE.

(A) This subchapter applies to all existing and new rental dwellings in the city, including any accessory structures on the premises upon which the rental dwelling is located, such as garages and storage buildings and appurtenances, such as sidewalks and retaining walls.

(B) This subchapter does not apply to the state's Department of Health licensed rest homes; convalescent care facilities; nursing homes; hotels; motels; or owner-occupied units.

(Prior Code, § 3-16-2)

§ 112.03 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHIEF BUILDING OFFICIAL. The Chief Building Official or designated agent.

CITY. The City of Monticello.

CITY ADMINISTRATOR. The City Administrator or the City Administrator's designated agent.

INTERNATIONAL PROPERTY MAINTENANCE CODE. The International Property Maintenance Code, 2018 edition, as published by the International Code Council.

MULTIPLE-FAMILY DWELLING. A rental dwelling containing three or more units.

OCCUPANT. Any person living or sleeping in a rental dwelling unit, or having possession of a space within a rental dwelling unit.

OWNER. With respect to all matters involving the making of applications and the giving of notices, the individuals or entities holding legal and equitable title to the premises.

PREMISES. A lot, plot, or parcel of land, including the building or structures thereon.

RENTAL DWELLING. A building or premises, or portion thereof, containing one or more units used or intended to be used for residential rental purposes.

UNIT. A single unit within a rental dwelling providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(Prior Code, § 3-16-3)

§ 112.04 ENFORCEMENT OFFICER.

The city's Chief Building Official is authorized and directed to enforce all provisions of this subchapter. The Chief Building Official may designate other city employees to enforce the provisions of this subchapter.

(Prior Code, § 3-16-4)

§ 112.05 RESPONSIBILITY OF OWNER (LANDLORD).

(A) Owner responsibility. Every owner of a rental dwelling is responsible for violations of duties and obligations imposed by this subchapter, applicable provisions of the city code, and the International Property Maintenance Code.

(B) Cleanliness. Every owner of a rental dwelling is responsible for keeping the rental dwelling in a clean, sanitary, and safe condition in conformance with this subchapter, applicable provisions of the city code and the International Property Maintenance Code.

(C) Disposal of rubbish. Every owner of a rental dwelling shall have all rubbish, garbage, and waste stored and disposed of in a clean, sanitary, and safe manner.

(D) Obtain license. The owner must obtain a license and pay all license fees as required by this subchapter before the rental dwelling may be rented.

(Prior Code, § 3-16-5) Penalty, see § 112.99

§ 112.06 GENERAL LICENSING PROVISIONS.

(A) License required. It is unlawful to own or operate a rental dwelling in the city without first having obtained a license from the city. An owner must obtain a license for each rental dwelling. If the rental dwelling contains two or more units, and has a common owner and a common property

identification number, the owner shall obtain a single license for the rental dwelling.

(B) License application. The owner of a rental dwelling must submit an application for a license on forms and in the format provided by the city. The owner must give notice, in writing, to the city within five business days of any changes to the information contained in the license application. The application must include:

(1) The owner's name, address, and telephone number, owning partners if a partnership, corporate officers if a corporation;

(2) Legal address of the rental dwelling;

(3) The type and number of units within the rental dwelling;

(4) The type of structure to be licensed (i.e., single-family, duplex, multi-family); and

(5) Pursuant to M.S. § 270C.72, subd. 4, as it may be amended from time to time, the owner's Social Security number and/or state business identification number.

(C) License fees. The owner must pay an annual license fee, the amount of which will be determined by the City Council. The owner must submit the required fee along with the application for a new or renewal license. Applications for a renewal license submitted after December 31 are subject to an additional late fee, which shall be determined from time to time by the Council.

(D) License period. The license period is for one year and all licenses shall expire on March 14 in each year.

(E) License issuance.

(1) Preliminary inspection and investigation. Prior to issuing an initial license, the Chief Building Official will seek consent from the owner for an inspection of the rental dwelling and conduct an inspection to determine compliance with this subchapter, the city code, and the International Property Maintenance Code. The Chief Building Official will review the application for completeness. All real estate taxes and municipal utilities must be paid and current.

(2) Compliance order. As to any rental dwelling existing as of the effective date of this subchapter, if the rental dwelling is not in full compliance with division (E)(1) above, the city may issue the initial license and provide the owner with a compliance order pursuant to § 112.09.

(F) Posting of license. The owner shall post a copy of the license in the rental dwelling in a conspicuous place approved by the Building Official. In

multiple-dwelling units requiring a single license, the license shall be posted in a common area of the building such as a corridor, hallway, or lobby. The posted license shall be framed and covered with clear glass or plastic.

(G) Transfer of license. Licenses are transferable. Any changes in the ownership of the rental dwelling require submittal of application and payment of license transfer fee.

(H) Register of occupancy. The owner shall keep a current register of occupancy for each rental dwelling. This register of occupancy may be reviewed by the city at any time. The register of occupancy shall contain, at a minimum, the following information:

(1) Address(es) of the rental dwelling;

(2) Number of bedrooms of each unit;

(3) Number of units in each building; and

(4) Number of adults and children (under 18) currently occupying each unit.

(Prior Code, § 3-16-6) (Ord. 611, passed 2-9-2015) Penalty, see § 112.99

§ 112.07 INSPECTIONS.

(A) Routine license inspections. No operating license may be issued or renewed unless the city determines, following an inspection conducted pursuant to this section, that the dwelling unit complies with this code. The owner of a dwelling unit shall contact the Chief Building Official or his or her agents to arrange an inspection at a reasonable time. The Chief Building Official and his or her agents are authorized to conduct an inspection, provided the owner or tenant consented to the inspection. A rental dwelling unit, including any common space areas, must be inspected a minimum of one time every two years. Nothing shall prohibit the city from requesting additional inspections if deemed necessary or if requested by a tenant of a rental dwelling unit. The owner shall notify the tenant or tenants of the time when the city inspection will be conducted and provide access to the units.

(B) Response to complaints. The Chief Building Official shall respond to complaints of violations of this subchapter. A complaint may be cause for a complete inspection of a unit or building. If an inspection is to be made, the Chief Building Official shall notify the owner or tenant of the inspection and request permission to inspect from the owner or tenant. If the owner or tenant does not consent, the city may pursue an administrative search warrant to conduct the inspection, unless a lawful exception to conduct an inspection without a warrant exists. If there are violations, the Chief

Building Official shall notify the owner or tenant pursuant to § 112.09 to correct the problem which prompted the complaint. The cost of the inspection shall be paid by the owner if the city's inspection reveals actual deficiencies as described by the occupant, and the payment of the cost shall be a condition of license renewal.

(C) Right to refuse entry. The owner, occupant, tenant, or person in charge of any property or rental unit possesses the right to deny entry to any unit or property by the Chief Building Official for purposes of compliance with this subchapter. However, nothing in this subchapter shall prohibit the Chief Building Official from asking permission from an owner, occupant, tenant, or person in charge of property for permission to inspect the property or rental unit for compliance with this subchapter and all other applicable laws, regulations, and codes. Nothing in this subchapter shall prohibit the city from seeking a search warrant or from entering a property or rental unit if a lawful exception to the warrant requirement exists.

(D) Scope of inspection.

(1) Neither the city nor any employee thereof assumes liability for the accuracy or quality of any property inspected pursuant to this subchapter at the request of the owner. The issuance of a rental license shall not be construed to represent a warranty or guarantee by or on behalf of the city nor shall the issuance of any certificate, license, or approval be construed to imply or warrant that a unit or property is: safe or free of any dangers or hazards to the occupants or general public; free and clear of any violations of this subchapter or any other laws, regulations, or codes; and free and clear of any defects.

(2) The issuance of any rental license shall not be construed to represent any warranties or guarantees by or on behalf of the city, nor shall the issuance of any certificates or approvals be construed to imply that the property is:

(a) Completely safe or free of any dangers or hazards to the occupants or general public;

(b) Completely free and clear of any violations of this subchapter or any other codes; or

(c) Completely free and clear of any defects related to any structural, fire protection, fire prevention, building utilities, or any other features of the property.

(Prior Code, § 3-16-7) (Ord. 611, passed 2-9-2015)

§ 112.08 CONDUCT ON LICENSED PREMISES.

(A) Owner responsible. It shall be the responsibility of the owner to see that persons occupying the rental dwelling conduct themselves in a manner as not to cause the premises to be disorderly. For purposes of this section, a rental dwelling is disorderly at which any of the following activities occur:

(1) Violation of M.S. §§ 609.755 through 609.76, as they may be amended from time to time, as may be amended from time to time, relating to gambling;

(2) Violation of laws relating to prostitution or acts relating to prostitution as defined in M.S. § 609.321, as it may be amended from time to time;

(3) Violation of M.S. §§ 152.01 through 152.027, as may be amended from time to time, relating to the unlawful sale or possession of controlled substances;

(4) Violation of M.S. §§ 340A.401 and 340A.503, as may be amended from time to time, relating to the unlawful commercial sale and underage consumption of alcoholic beverages;

(5) Violation of M.S. § 609.33, as may be amended from time to time, which prohibits owning, leasing, operating, managing, maintaining, or conducting a disorderly house, or inviting or attempting to invite others to visit or remain in a disorderly house;

(6) Violation of M.S. §§ 97B.021, 97B.045, 609.66 through 609.67, 624.712 through 624.716, 624.719, or 624.731 through 624.732, as may be amended from time to time, relating to the unlawful possession, transportation, sale, or use of weapons;

(7) Violation of city code or violation of M.S. § 609.72, as may be amended from time to time, relating to disorderly conduct;

(8) Violation of §§ 91.01 through 91.06 relating to nuisances.

(9) Violation of §§ 95.30 through 95.36 relating to recreational fires.

(10) Violation of §§ 90.001 through 90.025 and §§ 90.040 through 90.049 relating to animal control.

(B) First violation. Upon determination by the Chief Building Official that a licensed premises was used in a disorderly manner, as described in division (A) above, the Chief Building Official must give notice to the licensee of the violation and direct the licensee to take steps to prevent further violations.

(C) Second violation. If another instance of disorderly use of the licensed premises occurs within 12 months of an incident for which a notice in division (B) above was given, the Chief Building Official must notify the

licensee of the violation and must also require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent further disorderly use of the premises. This written report must be submitted to the Chief Building Official within five days of receipt of the notice of disorderly use of the premises and must detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding three months.

(D) Third violation.

(1) If another instance of disorderly use of the licensed premises occurs within 12 months after any two previous instances of disorderly use for which notices were given to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this section must be initiated by the Chief Building Official who must give to the licensee written notice of a hearing before the City Council to consider such denial, revocation, suspension, or non-renewal. The written notice must specify all violations of this section, and must state the date, time, place, and purpose of the hearing. The hearing must be held no less than ten days and no more than 30 days after giving the notice.

(2) Following the hearing, the City Council may deny, revoke, suspend, or decline to renew the license for all or any part or parts of the licensed premises or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this section.

(E) No adverse action pending eviction. No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant’s unit. Eviction proceedings are not a bar to adverse license action, however, unless they are diligently pursued by the licensee. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly use.

(F) Finding of disorderly conduct. A determination that the licensed premises have been used in a disorderly manner as described in division (A) above shall be made upon a fair preponderance of the evidence to support such a determination. It is not necessary that criminal charges be brought in order to support a determination of disorderly use, nor does the fact of dismissal or acquittal of a criminal charge operate as a bar to adverse license action under this section.

(G) Service of notices. All notices given by the city under this section, at the city's option, may be either personally served on the licensee, sent by regular mail to the licensee at the address listed on the application, or by posting on a conspicuous place on the licensed premises.

(H) Enforcement actions. Enforcement actions provided in this section are not exclusive, and the City Council may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by the city code, state law, or federal law.

(Prior Code, § 3-16-8)

§ 112.09 CONDITION OF LICENSED PREMISES.

(A) Compliance order. Whenever the Chief Building Official determines that the condition of any rental dwelling or the premises surrounding it fails to meet the provisions of this subchapter, other applicable city code provisions, or the International Property Maintenance Code, he or she may issue a compliance order setting forth the specific violations and ordering the owner to correct the violations.

(B) License action. If the violations listed in the compliance order are not remedied by the owner within the specified time given in the order, the license for the rental dwelling may be denied, suspended, revoked, or not renewed by the city. An administrative fine in an amount set forth from time to time by the City Council by resolution may also be imposed. If the city decides that it will be denying, suspending, revoking, or not renewing a license or imposing an administrative fine pursuant to this section, the city shall send a notice of the proposed action to the owner of the rental dwelling. The proposed action by the city shall be heard by the Council pursuant to the procedure set forth in § 112.10.

(C) Appeal.

(1) When it is alleged by the owner that the compliance order is based upon the erroneous interpretation of this subchapter, other applicable city code provisions, or the International Property Maintenance Code, the owner may appeal the compliance order to the City Council.

(2) The appeal shall be in writing, must specify the grounds for the appeal, must be accompanied by a filing fee, as set forth by resolution of the City Council, from time to time, and must be filed with the city within five business days after service of the compliance order. The appeal shall be heard by the Council pursuant to the procedure set forth in § 112.10.

(3) The filing of the appeal shall stay all proceedings in furtherance of the action appealed from, unless a stay would cause imminent peril to life, health, or property.

(Prior Code, § 3-16-9)

§ 112.10 HEARING PROCEDURE.

(A) Scheduling of hearing. If the city makes a determination that it will be denying, suspending, revoking, or not renewing a license pursuant to §§ 112.08 or 112.09, or if the owner is appealing the compliance order pursuant to § 112.09, the City Council shall conduct a hearing on the matter. The hearing shall be scheduled at the next regular Council meeting following the date of the notice or receipt of the owner's notice of appeal of a compliance order.

(B) Hearing. At the hearing, the City Council shall hear all relevant evidence and arguments and shall review all testimony, documents, and other evidence submitted. The owner shall have the opportunity to address the Council at the hearing.

(C) Findings. After the hearing is concluded, the City Council shall make its decision on whether to uphold the compliance order or to revoke, suspend, deny, or not renew the license or impose an administrative fine.

(D) No occupancy. If a license is revoked, suspended, denied, or not renewed by the City Council, it shall be unlawful for the owner to thereafter permit the occupancy of the rental dwelling or the unit. A notice of the action shall be posted by the Building Official on the rental dwelling or the unit in order to prevent any further occupancy. No person shall reside in, occupy, or cause to be occupied that rental dwelling or unit until a license is obtained or reinstated by the owner.

(E) Appeal. An owner may appeal the decision of the City Council as allowed under state law.

(Prior Code, § 3-16-10) Penalty, see § 112.99

§ 112.11 MISDEMEANOR.

Failure by an owner to comply with a compliance order after the right of appeal has expired or violation of any of the provisions of this subchapter shall constitute a misdemeanor. Each day that a violation continues shall be deemed a separate punishable offense.

(Prior Code, § 3-16-11) (Ord. 464, passed 7-23-2007)

MOBILE FOOD UNITS

§ 112.25 PURPOSE.

This subchapter is designed to permit the reasonable use of mobile food units while preventing any adverse consequences to residents, businesses, and public property.

(Prior Code, § 3-20-1) (Ord. 665, passed 5-8-2017)

§ 112.26 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MOBILE FOOD UNIT. A self-contained food service operation, located in a readily movable motorized wheeled or towed vehicle that is readily movable without disassembling and that is used to store, prepare, display, or serve food intended for individual portion service; or a MOBILE FOOD UNIT as defined in M.S. § 157.15, subd. 9, as it may be amended from time to time.

(Prior Code, § 3-20-2) (Ord. 665, passed 5-8-2017)

§ 112.27 LICENSE APPLICATIONS.

(A) Type of license. Each applicant must indicate whether it is applying for a temporary license or annual license for any number of days in the calendar year. A temporary license allows mobile food unit operations in the city for up to seven days total. An annual license allows mobile food unit operations in the city for eight days or more during any year. A licensee will only be issued one temporary license per calendar year, however, nothing shall prohibit a temporary licensee from applying for an annual license within the same year.

(B) License fees. Fees for both temporary and annual licenses are determined in the city’s fee schedule.

(C) Mobile food unit. It is unlawful for any person to operate a mobile food unit in the city without first obtaining a license from the city. An application for a license shall be filed, along with the required fee, with the City Clerk. The applicant must be the owner of the mobile food unit. The application shall be made on a form supplied by the city and shall contain information requested by the city, including the following:

(1) Name of the owner and operator, if different than owner, of the mobile food unit and permanent and temporary home and business address;

(2) The applicant's full legal name, date of birth, and driver's license number;

(3) A description of the nature of the business and the goods to be sold and the license plate number and description for any vehicle to be used in conjunction with the activity;

(4) The permanent and any temporary home and business address, phone numbers, and email address of the applicant, with a designation of a preferred mailing address for notices related to the license;

(5) The name, address, and contact information for the commissary with which the mobile food unit is affiliated, if applicable;

(6) A certificate of insurance by an insurance company authorized to do business in the state, evidencing the following forms of insurance:

(a) Commercial general liability insurance, with a limit of not less than $1,000,000 each occurrence. If the insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than $2,000,000.

(b) Automobile liability insurance with a limit of not less than $2,000,000 combined single limit. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned vehicles;

(c) Food products liability insurance, with a limit of not less than $1,000,000 each occurrence;

(d) Public liability insurance, with a limit of not less than $1,000,000 each occurrence;

(e) Property damage insurance, with a limit of not less than $1,000,000 each occurrence;

(f) Worker's compensation insurance (statutory limits) or evidence of exemption from state law; and

(g) The city shall be endorsed as an additional insured on the certificate of insurance and the umbrella/excess insurance if the applicant intends to operate its mobile food unit on public property, including public right-of-way.

(7) The certificate of insurance must contain a provision requiring notification be sent to the city should the policy be cancelled before its state expiration date;

(8) Written consent of each private property owner from which mobile food unit sales will be conducted;

(9) If the mobile food unit will be located on city property or public right-of-way, a signed statement that the licensee shall hold harmless the city and its officers and employees, and shall indemnify the city and its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the license;

(10) If applying only for a temporary license, the applicant must provide the dates and locations for its up to ten days of mobile food unit operations;

(11) A copy of each related license or permit issued by the county and the state required to operate a mobile food unit; and

(12) A copy of the applicant's state sales tax ID number.

(Prior Code, § 3-20-3) (Ord. 665, passed 5-8-2017) Penalty, see § 112.99

§ 112.28 CONDITIONS OF LICENSING.

A mobile food unit may only operate as set forth in the following.

(A) Locations. A mobile food unit may only operate in the locations set forth in this division (A). A mobile food unit may operate in a private commercial or industrial parking lot and on private residential property, with the written consent of the private property owner. When operations occur on private residential property, mobile food unit sales may only be for catering purposes (such as a private graduation party or wedding) and not open for sales to the general public. A mobile food unit may only operate along a public or private street when the street is closed to all nonemergency vehicles. A mobile food unit may only operate in a city park or on city property with the prior written approval by the city; additional permits may be required for such operations.

(B) Performance standards. A mobile food unit licensee is subject to the following performance standards:

(1) A mobile food unit with an annual license may not operate on the same property more than 21 days during any calendar year;

(2) Applicable license fee shall be paid;

(3) Shall operate in strict compliance with the laws, rules, and regulations of the United States, the state, the county, and the city;

(4) A mobile food unit must dispose of its gray water daily. Gray water may not be drained into city stormwater drains;

(5) Shall provide and maintain at least one clearly designated waste container for customer use per each mobile food cart or mobile food vehicle;

(6) Operator is responsible for daily removal of trash, litter, recycling and refuse. Public trash cans shall not be used to dispose of water generated by the operation. The operator shall provide a garbage receptacle with a tight-fitting lid. The receptacle shall be easily accessible for customer use, and located within five feet of the unit;

(7) A mobile food unit must provide an independent power supply that is screened from public view and that complies with city's noise regulations;

(8) Trucks can operate between 7:00 a.m. and 10:00 p.m. and must not create any unnecessary noise disturbances or disrupt public traffic or safety in any way. An exemption to hours may be authorized by City Council on a per event basis;

(9) A mobile food unit may have a maximum bumper to bumper length of no more than 40 feet;

(10) Operators must clean around their unit at the end of each day and units must be kept in good repair and have a neat appearance;

(11) Proof of Department of Health licensing must be provided and posted on unit;

(12) A mobile food unit must comply with the Fire Department food truck requirement (attached as exhibit);

(13) An out of service mobile food unit stored within the city must comply with all applicable zoning ordinance requirements;

(14) Mobile food units may operate on private property in any residential zoned districts for a "one-time" event for catering purposes only;

(15) Mobile food units cannot locate within 300 feet from the perimeter of any pre-approved festival, sporting event, or civic event unless a license is issued to be part of the festival or event;

(16) Mobile food units may not operate within 100 feet from the public entrance to any restaurant and/or any portion of a restaurant's outdoor dining area during that restaurant's hours of operation unless the licensee obtains permission from restaurant owner/manager; and

(17) Mobile food units may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park with the approval

of a special event permit, expect for events hosted by the city's community center.

(C) License. A mobile food unit license is non-transferable. Proof of license shall be displayed at all times in the mobile food unit. Mobile food unit operations may not occur in January, February, March, November, and December. A mobile food unit license is an annual license.

(D) Practices prohibited. It is unlawful for any person engaged in the business of a mobile food unit operation to do the following:

(1) Call attention to that licensee's business by crying out, blowing a horn, ringing a bell, loud music, or by any loud or unusual noise, or by use of any amplifying device;

(2) Fail to display proof of license and produce valid identification when requested;

(3) Cannot be left unattended nor remain at an authorized location outside allowed hours of operation;

(4) May not operate or travel in or on public sidewalks or trails;

(5) Remain on the property of another when asked to leave;

(6) Obstruct the ingress or egress from commercial buildings during the building hours of operation;

(7) Claim endorsements by the city based on license; or

(8) Conduct business in any manner as to create a threat to the health, safety, and welfare of a specific individual or the general public.

(Prior Code, § 3-20-4) (Ord. 665, passed 5-8-2017; Ord. 713, passed - -) Penalty, see § 112.99

§ 112.29 SUSPENSION OR REVOCATION OF A LICENSE.

A license issued pursuant to this section may be suspended by a city official if the licensee has violated § 112.28, or is otherwise conducting business in a manner as to constitute a breach of peace, fraudulent conduct, or any other conduct that is prohibited by local, state, or federal laws or regulations. Falsification of information required for a license is also grounds for denial, suspension, or revocation of a license. The license shall be automatically revoked if the licensee does not file an appeal pursuant to this section. When taking action on any license issued under this section, the city official shall provide the licensee with verbal or written notice of the violation. The notice shall inform the licensee of its right to be heard before the City Council. The notice shall also inform the licensee that the license

shall be automatically revoked if no appeal is filed within 21 days of the date of the notice by the city official. Verbal notice shall be confirmed within five days by a mailed written notice to the licensee. The Council shall not conduct a hearing on a suspension or revocation unless a request is made by the next available Council meeting. No Council resolution or other notice calling for a hearing shall be required.

(Prior Code, § 3-20-5) (Ord. 665, passed 5-8-2017)

LICENSING OF ADULT USE BUSINESSES

§ 112.40 LICENSE REQUIREMENTS.

(A) General requirement. No person, firm, partnership, or corporation shall operate an adult use, either principal or accessory, without having first secured a license as hereinafter provided. Licenses shall be one of two types:

(1) Adult use/accessory; and

(2) Adult use/principal.

(B) Application. In addition to such information the City Council may require, the application shall also include:

(1) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all those persons holding more than 5% of the issued and outstanding stock of the corporation;

(2) The name, address, phone number, and birth date of the manager of the operation, if different from the owners;

(3) The premises where the adult use is to be located within the entire building;

(4) A statement detailing any felony convictions by the applicant and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities;

(5) The activities and types of business to be conducted;

(6) The hours of operation;

(7) The provisions made to restrict access by minors; and

(8) A building plan of the premises detailing all internal operations and activities.

(C) License fees.

(1) Each application for a license shall be submitted to the City Administrator and payment made to the city. Each application for a license shall be accompanied by payment in full of the required fee for the license. All fees shall be paid into the General Fund. Upon rejection of any application for a license, the city shall refund the amount paid except for that cost to investigate the applicant.

(2) All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rated fee. In computing the fee, any unexpired fraction of a month shall be counted as one month.

(3) The annual fee for an adult use/accessory shall be $250. The annual fee for an adult use/principal license shall be $1,000.

(4) No part of the fee paid by any license issued under this subchapter shall be refunded except in the following instances upon application to the City Administrator within 30 days from the happening of the event. There shall be refunded a pro-rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases no less than one month before expiration of the license because of:

(a) Destruction or damage of the licensed premises by fire or other catastrophe;

(b) If the licensee is an individual, the licensee’s disabling illness. If the licensee is a partnership, the disabling illness of any general partner. If the licensee is a corporation, the disabling illness of any shareholder or shareholders who in the aggregate hold 50% or more of the issued and outstanding shares of the corporation;

(c) If the licensee is an individual, the licensee’s death. If the licensee is a partnership, the death of any general partner. If the licensee is a corporation, the death of any shareholder or shareholders who in the aggregate hold 50% or more of the issued and outstanding shares of the corporation; or

(d) A change in the legal status making it unlawful for the licensed business to continue.

(D) Granting of license.

(1) (a) The City Council shall investigate all facts set out in the application and hold a public hearing within 45 days after the City Administrator receives the application. Opportunity shall be given to any person to be heard for or against the granting of the license.

(b) After the investigation and administrative hearing, the City Council shall grant or refuse the application. The city shall grant or refuse the application within 45 days after the public hearing has closed.

(2) (a) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application.

(b) No license may be transferred to another premises without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license.

(c) All adult uses existing at the time of the adoption of this subchapter shall be required to obtain an annual license.

(E) Persons ineligible for license. No license shall be granted to or held by any person:

(1) Under 21 years of age;

(2) (a) Who has been convicted of any of the following felonies, or a shareholder, director, officer, or partner of which has been convicted of any of the following felonies:

1. Homicide;
2. Assault;
3. Any felony relating to controlled substances;
4. Kidnapping;
5. Robbery;
6. Any felony relating to prostitution;
7. Criminal sexual conduct;
8. Incest;
9. Malicious punishment of a child;
10. Receiving stolen property;
11. Any felony relating to gambling;

12. Any felony relating to dangerous weapons and/or firearms;

13. Any felony in which a dangerous weapon or firearm was used; or

14. Any other felony involving moral turpitude.

(b) The City Council may waive the provisions of division (E)(2)(a) above with respect to an adult use/accessory license and grant an adult use/accessory license to a person, partnership, or corporation a principal or principals of which have been convicted of a felony or felonies. In deciding whether to make a waiver, the Council shall consider:

1. The number of felony convictions;

2. The nature of the felony or felonies;

3. The length of time that has passed since the conviction or convictions; and

4. Whether the license is for a use that existed prior to the effective date of this subchapter.

(3) Who is not the proprietor of the establishment for which the license is issued.

(F) Places ineligible for license.

(1) No license shall be granted for adult uses on any premises where a licensee has been convicted of a violation of this subchapter, or where any license hereunder has been revoked for cause, until one year has elapsed after the conviction or revocation.

(2) Except for uses lawfully existing at the time of this subchapter adoption, no license shall be granted for any adult use which is not in compliance with the city’s zoning regulations.

(G) Conditions of license.

(1) Every license shall be granted subject to the conditions in the following divisions and all other provisions of this subchapter, and of any applicable sections of the code of the city or state law.

(2) All licensed premises shall have the license posted in a conspicuous place at all times.

(3) In the case of an adult use/principal, no minor shall be permitted on the licensed premises unless accompanied by his or her parent or legal guardian.

(4) Any designated inspection officer of the city shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours.

(5) Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of order.

(6) No adult goods and/or services shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.

(H) Right of appeal. Any applicant whose application for an adult use license is denied, or any licensee whose license is revoked or suspended, may appeal the denial, revocation, or suspension to the County District Court within 30 days after the denial, revocation, or suspension of the license.

(Prior Code, § 3-13-1) (Ord. 219, passed 1-27-1992) Penalty, see § 112.99

EATING AND DRINKING ESTABLISHMENTS

§ 112.55 ORDINANCE ADOPTED.

An ordinance entitled “The National Sanitation Foundation Standards of Commercial Powered Food Preparation Equipment, Food Service Refrigerator and Food Service Storage Freezers, Automatic Ice-Making Equipment, Soda Fountain/Luncheonette Equipment and Appurtenances, Dispensing Freezers, Food Vending Machines, Food Service Equipment and Appurtenances, and Commercial Spray-Type Dishwashing Machines” is hereby adopted for all public eating, drinking, and food service establishments in the city.

(Prior Code, § 7-4-1)

CANNABINOID PRODUCTS

§ 112.60 CANNABINOID PRODUCTS.

(A) Purpose. This subchapter is designed to permit the reasonable sale of cannabinoid products while protecting the general welfare of the city's youth, residents, and visitors by limiting the sale of cannabinoid products to those establishments licensed by Wright County to sell tobacco.

(B) General requirement. No person, firm, partnership, or corporation shall sell cannabinoid products unless:

(1) The seller also holds a retail tobacco license from Wright County, Minnesota and meets the definition of "tobacco products shop" as defined by the Wright County Code of Ordinances.

(2) The seller is abiding by all requirements under M.S. § 151.72, as it may be amended from time to time, and related laws.

(C) Definitions.

(1) Cannabinoid product shall mean a chemical compound derived from the cannabis plant or synthetically derived from the cannabis plant.

(2) Cannabinoid product means any edible or nonedible cannabinoid product authorized for sale in M.S. § 151.72, as it may be amended from time to time, and intended for human consumption whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means.

(D) Exemptions.

(1) Except as regulated above, there is no requirement to obtain a tobacco license from Wright County to sell cannabinoid products wherein the only cannabinoids present are non-intoxicating cannabinoids, such Cannabidiol ("CBD") or Cannabinol ("CBN").

(2) This subchapter does not apply to medical cannabis products dispensed by registered medical cannabis dispensaries pursuant to M.S. §§ 152.22 to 152.37, as they may be amended from time to time. Medical cannabis dispensaries that sell nonmedical cannabis products which are also cannabinoid products are not exempt.

(E) A violation of this subchapter is subject to the penalties listed in § 112.99

(Ord. 788, passed 12-12-2022)

§ 112.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person violating any provision of § 112.40 is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed state law.

(2) (a) Any violation of § 112.40 shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the City Council proposes to revoke or suspend the license, the licensee shall be

notified in writing of the basis for such proposed revocation or suspension. The Council shall hold a public hearing for the purpose of determining whether to revoke or suspend the license, which public hearing shall be within 45 days of the date of the notice.

(b) The City Council shall determine whether to suspend or revoke the license within 45 days after the close of the hearing and shall notify the licensee of its decision within that 45-day period.

(Prior Code, § 3-13-1) (Ord. 219, passed 1-27-1992)

CHAPTER 113: AMUSEMENTS

Section

Traveling Shows

113.01 Purpose

113.02 Definitions

113.03 License required

113.04 License application

113.05 License fees

113.06 Provisions of license

113.07 Surety bond

113.08 Insurance

113.09 Approval of license

113.10 Revocation

TRAVELING SHOWS

§ 113.01 PURPOSE.

The City Council finds that reasonable regulation of carnivals, circuses, and other similar events is necessary because of the impact such activities may have on the safety and well being of the citizens.

(Prior Code, § 3-9-1) (Ord. 461, passed 6-25-2007)

§ 113.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CARNIVAL. A traveling enterprise consisting of any combination of amusement rides, games, sideshows, or exhibits.

CIRCUS. An arena often covered by a tent and used for variety shows, usually including tests of physical skill and daring, wild animal acts, and performances by jugglers, clowns, and the like.

MENAGERIE. Display of animals for exhibition.

(Prior Code, § 3-9-2) (Ord. 461, passed 6-25-2007)

§ 113.03 LICENSE REQUIRED.

No individual or firm shall operate a carnival, circus, or menagerie in the city without having first obtained a license as provided by this subchapter.

(Prior Code, § 3-9-3) Penalty, see § 10.99

§ 113.04 LICENSE APPLICATION.

Every person or firm desiring a license shall fill out a form as prescribed by the City Clerk and receive approval for the application by the City Council. An application shall be made at least ten days in advance of the Council meeting at which it is to be considered. The applicant shall provide evidence of written permission by the property owner of the site specified in the application allowing the operation of the carnival, circus, or menagerie on the site.

(Prior Code, § 3-9-4) (Ord. 461, passed 6-25-2007)

§ 113.05 LICENSE FEES.

Fee for a license shall be a fee schedule adopted by the City Council. The fee payment shall accompany application. This license fee may be waived or modified for non-profit organizations by the Council.

(Prior Code, § 3-9-5) (Ord. 107, passed 11-23-1981)

§ 113.06 PROVISIONS OF LICENSE.

License shall be as provided in the license application unless modified by the City Council and shall not be for a period longer than eight days including set up and take down time.

(Prior Code, § 3-9-6) (Ord. 461, passed 6-25-2007)

§ 113.07 SURETY BOND.

A surety bond in the amount of $5,000 shall be provided to the city to insure that all applicable federal, state, and city regulations are adhered to, including provisions of this subchapter. This bond shall accompany the application.

(Prior Code, § 3-9-7)

§ 113.08 INSURANCE.

(A) The licensee shall provide proof of liability insurance coverage to protect the city and licensee against any claims or liability for personal injury or property damage sustained by any person as a result of the operation of carnival, circus, or menagerie. The liability coverage shall name the city as an additional insured. The insurance coverage shall have minimum limits of liability coverage of $1,000,000.

(B) The licensee shall indemnify, defend, and hold harmless the city from any claims and liability which may be brought against the municipality as a result of the operation of the circus, carnival, or menagerie.

(Prior Code, § 3-9-8) (Ord. 461, passed 6-25-2007)

§ 113.09 APPROVAL OF LICENSE.

City Council shall review application and consider approval based on the following factors:

(A) Adherence to ordinance provisions of this section;

(B) Previous violations of city ordinances, other cities’ ordinances, and state and federal regulations;

(C) Location and capability of location to handle anticipated traffic, and the like;

(D) Noise levels and proximity to residences, nursing homes, and hospitals;

(E) Other extenuating circumstances that may endanger the health, safety, and general welfare of the city and its citizens; and

(F) Hours of operation are limited from 10:00 a.m. to 10:00 p.m. unless modified by City Council.

(Prior Code, § 3-9-9) (Ord. 461, passed 6-25-2007)

§ 113.10 REVOCATION.

City Council may revoke the license at any time for violations of this subchapter or becoming aware of misrepresentation of facts in the application.

(Prior Code, § 3-9-10)

CHAPTER 114: TELECOMMUNICATIONS

Section

114.01 Findings and purpose

114.02 Creation

114.03 Management

114.04 Reservation of power

§ 114.01 FINDINGS AND PURPOSE.

M.S. § 237.19, as it may be amended from time to time, authorizes the city to own and operate a telephone exchange and to provide municipal telecommunications services following a referendum within the city. The city conducted the required referendum and more than the statutorily prescribed 65% of those voting thereon voted in favor of proceeding. The City Council hereby finds that the establishment of FiberNet Monticello is in the best interests of the city.

(Prior Code, § 2-9-1)

§ 114.02 CREATION.

A municipal telecommunications services enterprise to be known as FiberNet Monticello is hereby created and established.

(Prior Code, § 2-9-2)

§ 114.03 MANAGEMENT.

(A) The City Council shall appoint management for FiberNet Monticello, and hire or assign such staff or consultants or contractors as it deems necessary for the efficient operations of FiberNet Monticello and the city.

(B) Management shall be responsible for the administration and management of FiberNet Monticello.

(C) Management shall have the authority to govern FiberNet Monticello within the boundaries established in the annual budget as approved by the City Council. Management shall make an annual budget recommendation to the Council. Management shall ensure FiberNet meets city requirements and state statutory requirements for financial management and reporting.

(D) Management shall provide reports to the City Council accurately describing the activities and financial condition of FiberNet Monticello.

(E) Management shall maintain contact with the City Administrator as necessary to coordinate activities.

(Prior Code, § 2-9-3)

§ 114.04 RESERVATION OF POWER.

Except as delegated by this subchapter or the City Council, the Council reserves its rights and powers regarding FiberNet Monticello, including, but not limited to, the power to:

(A) Adopt the annual budget;

(B) Approve capital improvements; and

(C) Approve potential expansions of the service area of FiberNet Monticello.

(Prior Code, § 2-9-4) (Ord. 480, passed 4-14-2008; Ord. 654, passed 8-22-2016)

CHAPTER 115: CABLE SERVICE

Section

115.01 Findings and intent

115.02 Short title

115.03 Definitions

115.04 Franchises
115.05 Construction standards
115.06 System design and extension provisions
115.07 Consumer protection and customer service standards
115.08 Community services
115.09 Administration provisions
115.10 Indemnification and insurance
115.11 Franchise transfer or abandonment
115.12 Protection of individual rights
115.13 Unauthorized connections and modifications; prohibited
115.14 Enforcement

115.99 Penalty

Cross-reference:

Right-of-way regulations, see §§ 94.01 through 94.30

§ 115.01 FINDINGS AND INTENT.

The city finds that the delivery of cable service and related communications services may contribute significantly to the communication needs and desires of residents of the city, benefit local economic development, and improve public and municipal services. The city's intent in adopting this cable chapter is to encourage further development of cable service and related communications services in the city, and to ensure that all cable service providers are subject to comparable obligations and burdens.

(Ord. 711, passed 2-11-2019)

§ 115.02 SHORT TITLE.

This chapter will be known and cited as the "Cable Ordinance".

(Ord. 711, passed 2-11-2019)

§ 115.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless otherwise provided herein, terms, phrases, and words contained in this cable chapter shall have the meaning ascribed in the Cable Act, 47 U.S.C. §§ 521 et seq., or if not defined herein or in the Cable Act will have their normal and customary meaning. When not inconsistent with the context, words in the singular number include the plural number. The words “must” and “will” are always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory.

BASIC CABLE SERVICE. The meaning ascribed in Cable Act, 47 U.S.C. § 522(3).

CABLE COMMUNICATIONS SYSTEM, CABLE SYSTEM, or SYSTEM. The meaning ascribed in Cable Act, 47 U.S.C. § 522(7).

CABLE PROGRAMMING SERVICE. The meaning ascribed in Cable Act, 47 U.S.C. § 543(l)(2).

CABLE SERVICE. The meaning ascribed in Cable Act, 47 U.S.C. § 522(6).

CHANNEL. A portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel.

CITY. The City of Monticello, Minnesota, a municipal corporation, in the State of Minnesota.

COMMISSION. The Sherburne/Wright Counties Cable Communications Commission, a municipal joint powers entity consisting of the following municipalities: Big Lake; Buffalo; Cokato; Dassel; Delano; Elk River; Maple Lake; Monticello; Rockford; and Watertown.

CONVERTER. A customer premises device required to receive cable service.

DROP. The cable that connects the ground block at the subscriber’s location to the nearest distribution point of the system.

FCC. The Federal Communications Commission, or its lawful successor.

FRANCHISE, CABLE FRANCHISE, or FRANCHISE AGREEMENT. An agreement between the city and any provider of cable service pursuant to this cable chapter granting authorization to construct, operate, and maintain a system and provide cable service in the city.

FRANCHISE FEE. The meaning ascribed in Cable Act, 47 U.S.C. § 542(g).

GRANTEE. Any recipient of a franchise, and its agents and employees, lawful successors, transferees, or assignees.

GROSS REVENUES. All revenues, as determined in accordance with generally accepted accounting principles (“GAAP”), received by a grantee or its affiliates from the operation of a cable system to provide cable service in the city. By way of example and not limitation, GROSS REVENUES shall include any advertising revenues received by a grantee or its affiliates in connection with the provision of cable service. GROSS REVENUES shall not include revenues received by a grantee or its affiliates from the provision of telecommunications services or other non-cable services in the city, bad debt, credits, refunds and deposits paid to subscribers, or any taxes, fees, or assessments of general applicability collected by a grantee which are imposed directly on a subscriber and which are collected by a grantee for such governmental unit including any PEG capital fees. A franchise fee is not such a tax, fee, or assessment.

INSTALLATION. The connection of a system from a distribution cable to the point of connection, including standard installations and custom installations.

NORMAL BUSINESS HOURS. The meaning ascribed in the FCC’s rules, 47 C.F.R. § 76.309(c)(4).

NORMAL OPERATING CONDITIONS. The meaning ascribed in the FCC’s rules, 47 C.F.R. § 76.309(c)(4).

PEG ACCESS FACILITIES. Public, educational, and governmental programming channels, or any equipment or facilities for use of such channels as required by a franchise.

PERSON. The meaning ascribed in Cable Act, 47 U.S.C. § 522(15).

RIGHT-OF-WAY or RIGHTS-OF-WAY. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the local government unit has an interest, including other dedicated rights-of-way for travel purposes and utility easements of local government units.

RIGHT-OF-WAY ORDINANCE. An ordinance of general applicability adopted and uniformly applied as to similarly situated ROW occupants by the city establishing requirements regarding regulation, management, and use of rights-of-way, including registration and permitting requirements.

STANDARD INSTALLATION. Any residential installation that can be completed using a drop of 125 feet or less.

SUBSCRIBER. Any person who lawfully receives cable service via a system.

TELECOMMUNICATIONS SERVICES. The meaning ascribed in 47 U.S.C. § 153(46).

(Ord. 711, passed 2-11-2019)

§ 115.04 FRANCHISES.

(A) Generally.

(1) No person may construct, operate, or maintain a cable system or provide cable service in the city unless and until such person is granted a franchise. All franchises must be granted pursuant to the provisions of this cable chapter. Notwithstanding any provision to the contrary, any franchises and this cable chapter shall at all times be subject to, and without waiving, applicable law.

(2) Any franchise granted hereunder will authorize a grantee to deliver cable service and construct, operate, and maintain a cable system in the rights-of-way in the city.

(3) All franchises shall be nonexclusive and city may grant additional franchises at any time. The city will not grant an additional franchise on terms and conditions more favorable or less burdensome than those in an existing franchise. The city may impose additional terms and conditions in any additional franchise.

(4) The city shall comply with § 115.14(D) in the event an additional provider is legally authorized to provide cable service.

(5) This cable chapter and franchises granted pursuant hereto are intended to comply with M.S. Ch. 238, as it may be amended from time to time. Any applicable requirement established by M.S. § 238.084, as it may be amended from time to time, not expressly incorporated in this cable chapter or a franchise shall be deemed incorporated by reference in the franchise as though fully set forth therein.

(B) Use of rights-of-way.

(1) Use of rights-of-way to operate a cable system and provide cable service must not be inconsistent with the terms and conditions by which such rights-of-way were created or dedicated. Use of rights-of-way is subject to all generally applicable legal requirements including any right-of-way ordinance enacted by the city and division (E) below.

(2) Upon written request, the city shall have the right to review, subject to the confidentiality protections provided in § 115.09(C), the grantee’s system location maps at a mutually agreed upon location.

(C) Tree trimming. Subject to applicable law, a grantee is authorized to trim any trees upon and overhanging the rights-of-way, alleys, sidewalks, or public easements of city so as to prevent the branches of such trees from coming in contact with wires and cables of a system.

(D) Franchise term. Franchises will be granted for a term established in the franchise agreement. No franchise may be granted for a period exceeding 15 years from the date of acceptance by the grantee.

(E) Regulation of cable service. Any franchise agreement adopted pursuant to this cable chapter will define the contractual rights and obligations of the city and grantee; provided however that a grantee remains subject to the lawful exercise of the city's police power, ordinance-making authority, and power of eminent domain.

(F) Initial franchise applications.

(1) Upon request or its own initiative, the city may initiate the cable franchise application process required by M.S. § 238.081, as it may be amended from time to time. Any person desiring an initial franchise must file an application with the city.

(2) The city will establish an application fee in an amount to offset the costs of processing applications and awarding an initial franchise. Such application fees will not constitute a franchise fee.

(3) Upon receipt of an application for an initial franchise, city staff will prepare a report and recommendations to the City Council regarding the application(s).

(4) A public hearing concerning applications will be held prior to rejection or acceptance of applications, and award of any initial franchises.

(G) Franchise renewal. Franchise renewals will be conducted in accordance with applicable laws.

(Ord. 711, passed 2-11-2019)

Cross-reference:

Right-of-way regulations, see §§ 94.01 through 94.30

§ 115.05 CONSTRUCTION STANDARDS.

(A) Registration, permits, and construction codes. Within 90 days of acceptance of an initial franchise, a grantee shall apply for any necessary governmental permits, licenses, certificates, and authorizations to construct, repair, replace, relocate, operate, maintain, or reconstruct a system. A grantee must strictly adhere to all state and local laws and

building and zoning codes currently or hereafter applicable to location, construction, installation, operation, or maintenance of the facilities used to provide cable service in the city.

(B) Repair of rights-of-way and property.

(1) Consistent with any generally applicable rights-of-way ordinance adopted by the city or applicable law if a city has not adopted a rights-of-way ordinance, any rights-of-way or other property disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, or reconstruction of a cable system shall be promptly and fully restored by the grantee performing such work, at its expense, to a condition as good as that prevailing prior to such work.

(2) If a grantee fails to promptly perform the restoration required herein, the city shall have the right, following reasonable written notice to the grantee, to restore rights-of-way and other public property to a condition as good as that prevailing prior to the grantee's work. The city shall be fully reimbursed by the grantee for its actual costs relating to such restoration.

(C) Undergrounding of facilities.

(1) In all areas of the city where utility facilities are required to be placed underground, or where all other utility lines are underground, a grantee must construct and install system facilities underground.

(2) A grantee must bury new underground drops within a reasonable time period, subject to weather conditions. In the event the ground is frozen, a grantee will be permitted to delay burial until the ground is suitable for burial which in no event must be later than June 30.

(D) Safety requirements.

(1) A grantee shall at all times keep and maintain the system in good condition, order, and repair so as to avoid endangering the life or property of any person; employ ordinary and reasonable care and common industry practices to avoid causing damage, injuries, or nuisances to the public; and keep and maintain the system in accordance with all federal, state, and local laws and regulations including the National Electric Safety Code.

(2) A grantee must install and maintain equipment and facilities in accordance with all applicable federal and state laws and regulations, any right-of-way ordinance, and the requirements of the National Electric Safety Code.

(Ord. 711, passed 2-11-2019)

§ 115.06 SYSTEM DESIGN AND EXTENSION PROVISIONS.

(A) System capacity and channels. At a minimum, any franchise granted hereunder shall describe the grantee's network in terms of the total system capacity such as the total number of analog and digital video channels that can be provided.

(B) Cable service availability.

(1) Each franchise will identify a required service area in which a grantee will be required to offer cable service to all dwellings, homes, and businesses, subject to a reasonable density threshold. Any additional franchise will include a service area that is no more favorable or less burdensome than the service area in an existing franchise.

(2) Any franchise granted hereunder may establish requirements for the extension of the system and provision of cable service to areas that may be annexed by the city beyond the initially required service area.

(3) Cable service shall not be denied to any group of potential residential cable subscribers because of the income of the residents of the area in which such group resides.

(C) Non-standard installations. A grantee must provide cable service to any person requesting other than a standard installation except that a grantee may charge for the incremental increase in material and labor costs incurred above the cost of making a standard installation.

(D) Technical standards. Any system offering cable service in the city must comply, at minimum, with the technical standards promulgated by the FCC relating to cable systems pursuant to 47 U.S.C. §§ 76.601 to 76.617, as may be amended or modified from time to time.

(E) System testing.

(1) A grantee shall perform all system testing required pursuant to the FCC's technical standards and requirements.

(2) Demand for special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance. Such tests shall be limited to the particular matter in controversy or unresolved complaints. The city shall arrange its request for such special testing so as to minimize hardship or inconvenience to the grantee or to the subscribers caused by such testing. Before ordering such tests, the grantee shall be afforded 30 days to correct problems or complaints upon which tests were ordered. The city shall meet with the grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, the city wishes to commence special

tests and the 30 days have elapsed without correction of the matter in controversy or unresolved complaints, the tests shall be conducted by a qualified engineer mutually selected by the city and the grantee based on a mutually agreed upon scope of work and cost. The parties shall bear their respective costs for the testing, with the city bearing the cost of special testing unless such testing reveal that the source of the technical difficulty is within the grantee's reasonable control, in which case the cost of the testing must be borne by the grantee.

(F) FCC reports. The results of tests required to be filed by the grantee with the FCC shall also be copied to city.

(G) Emergency alert system. A grantee shall comply with 47 U.S.C. § 544(g) and all regulations issued pursuant thereto with respect to an emergency alert system ("EAS"). If a grantee provides an EAS, then the city shall permit only appropriately trained and authorized persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the grantee's cable system in any manner that results in inappropriate use thereof, or any loss or damage to the cable system. The city shall hold the grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS, including, but not limited to, reasonable attorney's fees and costs.

(Ord. 711, passed 2-11-2019)

§ 115.07 CONSUMER PROTECTION AND CUSTOMER SERVICE STANDARDS.

(A) Regulation of cable service rates. The city may regulate rates for the provision of cable service to the extent allowed under federal and state law(s). A grantee must file a list of current subscriber rates and charges with the city, which lists will be maintained on file with city and will be available for public inspection. For purposes of this section, the availability of this information on a grantee's website shall constitute compliance. A grantee shall comply with applicable law in providing the city and subscribers with notice of any change in a cable service rate or charges.

(B) Sales procedures. A grantee may not exercise deceptive sales procedures that violate state laws when marketing any of its cable services within the city. A grantee may conduct marketing consistent with local ordinances and other applicable laws and regulations.

(C) Telephone inquiries and complaints. A grantee must maintain local, toll-free or collect call telephone access lines which will be available to its subscribers 24 hours a day, seven days a week. A grantee must comply with the FCC's customer service standards, as amended, a current copy of which is attached to the ordinance codified herein and made a part hereof.

(D) Complaint and other service records.

(1) Upon written request by the city, and subject to a grantee's obligation to maintain the privacy of certain information, a grantee must prepare and maintain written records of all written complaints received and the resolution of such complaints for a period of three years, including the date of such resolution.

(2) Written complaint records for a period of three years must be on file at the office of a grantee. Upon written request by the city, a grantee must provide the city with a written summary of such complaints and their resolution and in a form mutually agreeable to the city and grantee.

(3) (a) Upon written request by the city, a grantee must provide detailed compliance reports on a quarterly basis for a period of three years with respect to the objectively measurable service standards required in this section.

(b) A grantee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards contained in this section unless a historical record of complaints indicates a failure to comply.

(E) Subscriber contracts. A grantee must provide to the city upon request any standard form residential subscriber contract utilized.

(F) Video programming. All franchises will comply with 47 U.S.C. § 544(b), regarding the broad categories of video programming provided. Individual programming decisions may be made in the grantee's sole discretion.

(G) Billing and subscriber communications.

(1) A grantee shall comply with federal law regarding giving the city and subscribers prior notice of any changes in rates, programming services, or channel alignments.

(2) Bills must be clear, concise, and understandable. Bills must clearly delineate all activity during the billing period, including optional charges, rebates, and credits. In case of a billing dispute, the grantee must respond to a written complaint from a subscriber within 30 days.

(H) Refunds and credits. A grantee shall comply with applicable law regarding the issuance of refunds or credits.

(I) Additional customer service requirements. The city may adopt additional or modified customer service requirements to address subscriber concerns or complaints to the extent permitted by law.

(Ord. 711, passed 2-11-2019)

§ 115.08 COMMUNITY SERVICES.

(A) PEG access facilities. Franchises will establish obligations to provide PEG access facilities to meet the community's needs and interests. The city will operate, administer, and manage PEG access programming and the city may delegate its PEG access authority and responsibilities to the Commission. All franchises must contain equivalent PEG access obligations on any franchise provider of cable services.

(B) Service to public or educational institutions. Franchises will establish obligations for the provision of free or reduced cost cable services to identified public or educational institutions.

(Ord. 711, passed 2-11-2019)

§ 115.09 ADMINISTRATION PROVISIONS.

(A) Administration of franchise. The city will have continuing regulatory authority over cable systems, cable services, and franchise compliance. The city may delegate any and all regulatory authority to the commission. A grantee must fully cooperate with the commission in the exercise of regulatory authority delegated by the city.

(B) Franchise fee.

(1) A grantee must pay to the city a franchise fee in the amount established in the franchise agreement, provided that the city must impose identical franchise fee obligations (including the percentage and gross revenue definition) on all cable service providers in the city.

(2) Each franchise fee payment must be accompanied by a report certified by an authorized representative of the grantee, in form reasonably acceptable to city, detailing the computation of the payment. All amounts paid must be subject to audit and recomputation by the city for the statutorily-allowed period applicable to assertion of contract claims, and acceptance of any payment must not be construed as an accord that the amount paid is in fact the correct amount.

(3) A grantee may designate that portion of a subscriber's bill attributable to the franchise fee as a separate line item on the bill.

(C) Access to records.

(1) The city may, upon reasonable notice and during normal business hours, and subject to the privacy provisions of 47 U.S.C. §§ 521 et seq., inspect at a mutually convenient location any records of system operations

maintained by a grantee that relate to a grantee's compliance with its franchise, including specifically the grantee's gross revenue records. A grantee may identify and label documents as "confidential trade secret" in accordance with § 115.04(B).

(2) A grantee must prepare and furnish to the city such reports as city may reasonably request with respect to operation of the system and provision of cable services in the city.

(Ord. 711, passed 2-11-2019)

§ 115.10 INDEMNIFICATION AND INSURANCE.

(A) Indemnification of the city.

(1) A grantee must indemnify, defend, and hold harmless the city, its officers, boards, committees, commissions, elected officials, employees, and agents from and against any loss or damage to any real or personal property of any person, or for any injury to or death of any person, arising out of or in connection with the construction, operation, maintenance, repair, or removal of a system or other facilities used by a grantee to deliver cable service.

(2) A grantee must indemnify, defend, and hold the city, its officers, boards, committees, commissions, elected officials, employees and agents, harmless from and against all lawsuits, claims, actions, liability, damages, costs, expenses, or penalties incurred as a result of the award or enforcement of its franchise.

(3) A grantee shall not be required to provide indemnification or defense for any intentional misconduct, willful neglect, or negligence by an indemnified party, for any enforcement action taken by the city against a grantee, for any claim based solely on the city's operation of PEG access facilities, delivery of PEG access programming, or EAS messages originated by the city. Subject to the limitations in M.S. Ch. 466, as it may be amended from time to time, the city shall indemnify, defend, and hold a grantee harmless from any damage resulting from any intentional misconduct, willful neglect, or negligence by the city, its officers, boards, committees, commissions, elected officials, employees, and agents, in utilizing PEG access facilities or channels, delivering EAS messages originated by the city, or in connection with work performed on or adjacent to the system.

(4) With respect to each claim for indemnification:

(a) The city must notify the grantee in writing of its duty under this section within ten days of receipt of any suit, claim, or proceeding which gives rise to such duty;

(b) The grantee must afford the city an opportunity to participate in any compromise, settlement, or other resolution or disposition of any suit, claim, or proceeding; and

(c) The city must cooperate with reasonable requests of the grantee, at grantee's expense, in its participation in a suit, claim, or proceeding.

(B) Insurance.

(1) A grantee must obtain and maintain in full force and effect, at its sole expense, a comprehensive general liability insurance policy, in protection of the grantee, and the city, its officers, elected officials, boards, commissions, agents, and employees for damages which may arise as a result of operation of the system or delivery of cable service.

(2) The policies of insurance must be in the sum of not less than $1,000,000 for bodily injury or death of any one person, and $2,000,000 for bodily injury or death of two or more persons in any one occurrence, $500,000 for property damage to any one person and $2,000,000 for property damage resulting from any one act or occurrence.

(3) The insurance policy must be maintained by grantee in full force and effect during the entire term of the franchise. Each policy of insurance must contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of grantee or for other reasons, except after 30 days advance written notice have been provided to the city.

(Ord. 711, passed 2-11-2019)

§ 115.11 FRANCHISE TRANSFER OR ABANDONMENT.

(A) Abandonment of service. A grantee may not discontinue the provision of cable service without having first given three months written notice to the city.

(B) System removal after abandonment, termination, or forfeiture.

(1) In the event of termination or forfeiture of the franchise or abandonment of the system, the city may require the grantee to remove all or any portion of its system from all rights-of-way and public property within the city; provided, however, that the grantee will not be required to remove its system to the extent it lawfully provides non-cable services over the system.

(2) If the grantee has failed to commence removal of its system, or such part thereof as was designated by the city, within 120 days after written demand for removal is given, or if the grantee has failed to complete

such removal within 12 months after written demand for removal is given, the city may apply funds secured by the franchise toward removal.

(C) Sale or transfer of franchise.

(1) No sale or transfer of ownership of a grantee or “fundamental corporate change” in a grantee as defined in M.S. § 238.083, as it may be amended from time to time, nor sale of transfer of a franchise, is permitted without city approval. Any sale or transfer of stock in a grantee creating a new controlling interest constitutes a sale or transfer of ownership. A “controlling interest” includes majority stock ownership or a lesser amount sufficient to confer actual working control in whatever manner exercised. City approval shall not be required where a grantee grants a security interest in its franchise or system to secure an indebtedness.

(2) A grantee must file a written request with the city prior to any transaction described above. The city will approve or deny a transfer request within 120 days of receipt of a written request. The city will not unreasonably withhold its approval.

(3) In no event will a transaction be approved unless any proposed new grantee becomes a signatory to, and assumes all rights and obligations under, the franchise.

(4) In the event a grantee has received a bona fide offer for purchase of its system, the city shall have the right to purchase the system for the same price and under equivalent conditions which the proposed assignee or transferee agreed to pay. The city will be deemed to have waived its right to purchase the system in the following circumstances:

(a) The city does not notify the grantee in writing, within 60 days of notice, that it intends to exercise its right of purchase; or

(b) The city approves the transaction.

(Ord. 711, passed 2-11-2019)

§ 115.12 PROTECTION OF INDIVIDUAL RIGHTS.

(A) Discriminatory practices prohibited. No grantee may deny cable service or otherwise discriminate against citizens or businesses on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference, or disability.

(B) Subscriber privacy.

(1) A grantee must comply with the subscriber privacy-related requirements of 47 U.S.C. § 551.

(2) No signals of a Class IV channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written authorization of the subscriber.

(Ord. 711, passed 2-11-2019)

§ 115.13 UNAUTHORIZED CONNECTIONS AND MODIFICATIONS; PROHIBITED.

(A) It is unlawful for any person, without the express consent of the grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a grantee's system.

(B) It is unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of a system for any purpose.

(Ord. 711, passed 2-11-2019) Penalty, see § 115.99

§ 115.14 ENFORCEMENT.

(A) Violations or other occurrences giving rise to enforcement action.

(1) In order to take enforcement action pursuant to this cable chapter or a franchise, the city must provide the grantee with written notice of the violation or other occurrence giving rise to the city's action.

(2) The grantee shall have 30 days subsequent to receipt of the notice to cure the violation or occurrence giving rise to the city's action. Alternatively, the grantee may, within 14 days of receipt of notice from the city, notify the city in writing that there is a dispute as to whether a violation or failure has in fact occurred. Such written notice by the grantee to the city shall specify with particularity the matters disputed by grantee and shall toll the running of the timeframes and the accrual of penalties hereunder until completion of the process and issuance of a decision under divisions (A)(3) through (A)(5) below.

(3) In the event a grantee does not timely cure to the city's satisfaction the violation or other occurrence giving rise to the city's action, or timely disputes whether a violation has occurred, the city will schedule a public hearing affording grantee due process. The city will endeavor to schedule the hearing for a date within 90 days of the initial violation notice. Notice of the hearing must be provided to the grantee.

(4) At the completion of the hearing, the city will issue written findings of fact and its final determination.

(5) In the event city determines that no violation has taken place, the city will rescind the notice of violation in writing.

(B) Franchise revocation.

(1) In addition to all other rights and remedies that the city possesses pursuant to law, equity and the terms of the franchise agreement, the city may revoke or terminate the franchise, and all rights and privileges pertaining thereto, in accordance with division (A) above if the city determines that:

(a) The grantee has violated any material requirement or provision of the cable chapter or a franchise and has failed to timely cure;

(b) The grantee has attempted to evade any of the material provisions of the cable chapter or a franchise;

(c) The grantee has practiced fraud or deceit upon the city or a subscriber; or

(d) The grantee has filed for bankruptcy.

(2) During any revocation proceeding and any appeal period, the franchise will remain in full force and effect unless the term thereof sooner expires.

(C) Compliance with federal, state, and local laws. The city and grantee will conform to federal and state laws and rules regarding cable service or the system as they become effective.

(D) Equal protection.

(1) The city acknowledges that under M.S. § 238.08, subd. 1(b), as it may be amended from time to time, it may only grant additional franchises to provide cable service within the city on terms and conditions no more favorable or less burdensome than those in any then-current franchise which pertain to:

(a) The area served;

(b) Public, educational, or governmental access requirements; or

(c) Franchise fees.

(2) Additionally, and beyond the requirements of M.S. § 238.08, as it may be amended from time to time, any additional franchises to provide cable service within the city shall not be granted on more favorable or less burdensome conditions than those in any then-current franchise issued

pursuant to this cable chapter with regard to ROW access and responsibilities, complimentary service to public buildings, penalties, and security, sale, or transfer of ownership.

(a) If any other provider of cable services is lawfully authorized by the city to provide such services using facilities located wholly or partly in the rights-of-way of the city ("additional provider(s)"), the city shall, within 30 days of a written request from a current franchise holder, use best efforts to modify the current franchise holder's franchise on a mutually acceptable basis to ensure that the obligations imposed by this section have been met.

(b) If the city fails to comply with this section or the parties fail to reach agreement under division (D)(2)(a) above, a current franchise holder shall have the right to initiate an action in the state or federal district court for breach of contract or other appropriate claims and seek any and all appropriate relief, including specific performance.

(c) Nothing in this chapter shall impair the right of the city or a current franchise holder to seek other remedies available under law.

(d) In the event city initiates the franchising process pursuant to M.S. § 238.081, as it may be amended from time to time, the city shall notify all current franchise holders in writing of its intent to initiate the franchising process prior to doing so.

(e) A current franchise holder shall have the right to operate its cable system in accordance with applicable state or federal law, as may be amended from time to time.

(Ord. 711, passed 2-11-2019)

§ 115.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person found guilty of violating § 115.13 may be fined not less than $20 and the costs of the action nor more than $500 and the costs of the action for each and every subsequent offense.

(Ord. 711, passed 2-11-2019)

CHAPTER 116: SIDEWALK CAFÉS

Section

116.01 Definitions

116.02 Licenses

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§ 116.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ELIGIBLE VENUE.

(1) A restaurant currently holding a license from the Minnesota Department of Health that was issued pursuant to M.S. § 157.16, subd. 1, as it may be amended from time to time;

(2) A premises currently holding an on-sale intoxicating liquor license that was issued pursuant to Chapter 110 of this code of ordinances;

(3) A premises currently holding a wine license that was issued pursuant to Chapter 110 of this code of ordinances; or

(4) A premises currently holding a brewery, taproom or brew pub license that was issued pursuant to Chapter 110 of this code of ordinances.

MUNICIPAL PARKING LOT. A parking lot owned by the city that is generally available for use by the public for vehicular parking.

PUBLIC SIDEWALK. A sidewalk owned by the city that is generally available for use by the public for pedestrian traffic.

RESTAURANT. The meaning given it by M.S. § 157.15, subd. 12, as it may be amended from time to time.

SIDEWALK CAFÉ. Tables, chairs, benches, and appurtenant equipment located on a public sidewalk or municipal parking lot:

(1) For the exclusive or non-exclusive use by patrons of an abutting, eligible establishment as allowed by the license; and

(2) Where the service of food or beverages is offered to persons using such tables, chairs, and benches.

§ 116.02 LICENSES.

(A) License required. A person may use a public sidewalk or municipal parking lot for a sidewalk café in connection with the operation of an eligible venue if the person holds a current sidewalk café license issued pursuant to this chapter. The operation of a sidewalk café under any other circumstance is prohibited.

(B) License period. Each sidewalk café license issued on or before April 1 shall run from the beginning of the day on April 1 to the end of the day on October 31 for the year to which the license applies. Each sidewalk café license issued after April 1 shall run from the beginning of the day the license was issued to the end of the day on October 31 for the year to which the license applies.

(C) Nature of use. A sidewalk café license only grants the license holder a temporary license to encroach upon a public sidewalk or municipal parking lot, subject to the requirements and restrictions contained in this chapter.

(D) License application.

(1) A person desiring to use any portion of a public sidewalk or municipal parking lot for a sidewalk café in connection with the operation of an eligible venue must apply for a sidewalk café license using forms supplied by the City Clerk.

(2) Each application must include a plan, drawn to scale, illustrating:

(a) The exact location of the proposed sidewalk café;

(b) Distances to, and dimensions of, adjoining buildings;

(c) All sidewalks, curbs, and striped parking stalls within 100 feet of the perimeter of the proposed sidewalk café;

(d) The distance to and location of the traveled portion of the nearest adjacent street; and

(e) Distances to all obstructions in the vicinity.

§ 116.03 FEES.

(A) Fee amount.

(1) An application for a sidewalk café license for a sidewalk café located on a public sidewalk shall be accompanied by the appropriate sidewalk café license fee set forth in the city fee schedule.

(2) (a) An application for a sidewalk café license for a sidewalk café located on a municipal parking lot shall be accompanied by the appropriate sidewalk café license fee, which shall be calculated by adding the base fee to the total parking stall fee listed in the city fee schedule.

(b) The parking stall fee shall be calculated by multiplying the number of parking stalls impacted by the sidewalk café by the per stall fee listed in the city fee schedule.

(c) A parking stall shall be deemed impacted by a sidewalk café if the sidewalk café shown in the application prevents reasonable access to the parking stall, as determined by the City Council.

(d) The parking stall fee is a one-time fee paid at the time of first license issue.

(B) Fee calculation.

(1) The license fee for any sidewalk café license issued after April 1 of a year shall be prorated based upon the number of days between April 1 and the date of issuance as compared to the number of days between the date of issuance and October 31.

(2) If the application is denied, the sidewalk café license fee, less $100, shall be returned to the applicant.

(3) If a sidewalk café license is surrendered by a license holder or revoked before October 31 of any calendar year, no refund shall be given.

§ 116.04 CONDITIONS OF APPROVAL.

(A) Site specific requirements.

(1) Sidewalk café area shall be limited to the public right-of-way abutting the frontage of the business to which it is attached. The sidewalk café area may be extended to the public frontage of the abutting property with notice to the adjacent property owner of the license consideration.

(2) Sidewalk cafés must be located at least 20 feet from any fire hydrant.

(3) Sidewalk cafés must not block site lines at intersections as determined by the City Engineer and/or Public Works Director.

(4) Each license issued pursuant to this chapter shall specify the specific dimensional area in which such café may be operated.

(5) The city maintains the right to review and make final determination as to the location of each sidewalk café based on the unique circumstances related to each business.

(B) Design specifications.

(1) Dimensioned site plan shall be provided detailing location of sidewalks, pathways, proposed seating areas, landscaping features, and any appurtenances.

(2) Lighting, if proposed, must be illustrated on the site plan, be directed downward, and be compatible with the surrounding area.

(3) Canopies may be used for weather protection and heaters are allowed. Specifications for both to be provided and are subject to approval of Building Official.

(4) No commercial signage may be placed on the sidewalk café areas, including canopies and umbrellas, except for on table tops. Sandwich board signs may be allowed provided they are removed from the café each evening.

(5) There shall be a minimum clear passage zone for pedestrians of at least five feet, and shall be maintained at all times.

(6) Umbrellas extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum head clearance of seven feet.

§ 116.05 LICENSE REQUIREMENTS.

No license for a sidewalk café shall be issued or renewed until all of the following conditions are met.

(A) The applicant possesses valid licenses from the state and the city to operate the eligible venue.

(B) The area occupied by the sidewalk café abuts to, and will be operated as part of, the applicant’s eligible venue and no part of the sidewalk café adjoins any premises other than the applicant’s eligible venue.

(C) A distance of at least 150 feet exists between the nearest point of the sidewalk café to the nearest point of any property used for residential purposes, excepting residential property owned by the applicant, mixed use commercial/residential structures, and properties located within the Central Community District.

(D) The applicant has furnished the City Clerk with acceptable evidence that the applicant maintains commercial general liability insurance for any death, personal injury, or property damage arising from the ownership, maintenance, or operation of the sidewalk café in amounts not less than:

(1) One million dollars for injury to or death of one person;

(2) Three million dollars for any one incident; and

(3) One hundred thousand dollars for damage to property arising from any one incident.

(E) The applicant shall maintain such insurance in effect at all times during the term of the sidewalk café license. The city shall be named as an additional insured in the policy providing such insurance. The applicant shall produce a certificate to the city when any sidewalk café license is issued or renewed evidencing the required insurance. Further, such certificate shall obligate the insurer to endeavor to give the city not less than 30 days advanced notice of any modification or cancellation of coverage.

(F) The applicant has furnished the City Clerk with acceptable evidence of worker's compensation coverage as required by M.S. § 176.182, as it may be amended from time to time.

(G) The city has not received notice from the State Department of Revenue prohibiting issuance or renewal of the sidewalk café license.

(H) The applicant has executed and delivered a written agreement to the City Clerk, using a form of agreement provided by the City Clerk, that:

(1) Acknowledges the sidewalk café only exists as a permitted encumbrance for the applicable license period; and

(2) Obligates the applicant to indemnify and hold the city and the city's officials and employees harmless from any loss, costs, damages, and expenses arising out of the use, design, operation, or maintenance of the sidewalk café.

(I) The applicant has delivered the damage deposit to the City Clerk.

(J) The City Council has found that the sidewalk café will not unduly restrict the safe usage of the public sidewalk or municipal parking lot, as applicable, after taking into consideration the location of the proposed sidewalk café, pedestrian traffic, and vehicular traffic.

§ 116.06 OPERATION.

Every sidewalk café shall be operated in strict conformance with the following requirements.

(A) The conditions, operation, and restrictions shall be met on a continuing basis. No expansion of the area occupied by the sidewalk café from that shown on the license application shall be made.

(B) Only food or beverages for immediate consumption shall be offered for sale.

(C) Intoxicating liquors, beer, or wine may be consumed only if the sidewalk café meets all of the requirements of Chapter 110.

(D) The sidewalk café shall be maintained in a clean and sanitary condition. Sidewalks will be required to be swept and washed daily by the permit holder and trash disposal and electricity will be provided from within the establishment.

(E) The person holding the sidewalk café license shall, at such person's expense, promptly repair any damage to public property resulting, in whole or in part, from the operation of the sidewalk café.

(F) Any public sidewalk between the eligible venue and the sidewalk café shall, at all times, remain open for public traffic, subject to ingress and egress between the eligible venue and its sidewalk café.

(G) No sale or service shall be permitted in any portion of the street designated for vehicular traffic.

(H) Hours of operation of the sidewalk café shall be limited to between 10:00 a.m. and 10:00 p.m. from April 15 through October 15.

(I) No electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices shall be allowed in the sidewalk café area.

§ 116.07 RESTRICTIONS.

Every sidewalk café shall be operated in strict conformance with the following restrictions.

(A) Each license issued pursuant to this chapter shall specify the specific dimensional area in which such café may be operated.

(B) The permit does not authorize any structure to be permanently installed or any equipment to be permanently attached to, in, or upon any public right-of-way.

(C) Except as provided herein, the ownership, operation, and maintenance of a sidewalk café shall be subject to all applicable laws, ordinances, and regulations.

(D) No sidewalk café permit can be transferred to new ownership without permission of the City Council.

(E) The recommendation of these departments, including the recommended minimum unobstructed sidewalk width necessary for pedestrian traffic on such application, shall be reported to the City Council for its action.

(F) No person shall consume an alcoholic beverage in a public park, on any public street, sidewalk, parking lot, or alley, or in any other public place, except as expressly allowed by:

(1) This Chapter 116;

(2) M.S. Ch. 340A, as it may be amended from time to time; or

(3) A sidewalk café license issued pursuant to this Chapter 116.

§ 116.08 INSPECTION.

The city may inspect a sidewalk café at any time to confirm compliance with the requirements of this chapter.

§ 116.09 PERMIT SUSPENSION AND REVOCATION.

(A) The city may revoke any sidewalk café license if any requirement set forth in § 116.05 is violated or if the State Department of Revenue sends the city notice requiring revocation. Nothing herein shall be interpreted as preventing the city from also prosecuting any violation of this chapter as a criminal violation pursuant to the city code.

(B) Any special permit authorized by this chapter may be revoked at any time by the City Council when it appears that adequate grounds exist. Any such permit may be suspended by the Council for such period as the Council shall determine.

§ 116.10 EXPIRATION OF LICENSES.

(A) Date of expiration. Licenses issued pursuant to this chapter expire on October 31 of each calendar year.

(B) Surrender. On or before the date a sidewalk café license expires, the applicant shall surrender the sidewalk café area to the city in the same order and condition as existed on the date the sidewalk café license was issued, ordinary wear and tear excepted. Without limiting the general nature of the preceding sentence, the applicant shall remove all personal property from the sidewalk café area and repair all damage caused by such removal, all at the applicant’s expense.

§ 116.11 RIGHT TO A HEARING.

Except for a denial or revocation required by the State Department of Revenue, any applicant that has been denied the issuance of a sidewalk café license or any person whose sidewalk café license has been revoked may, upon written request to the City Clerk promptly made after the denial or revocation has occurred, request a hearing before the City Council to present evidence and to appeal the decision.

CHAPTER 117: THERAPEUTIC MASSAGE ENTERPRISES AND MASSAGE THERAPISTS

Section:

117.01 Purpose

117.02 Definitions

117.03 License requirements

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117.05 License application

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§ 117.01 PURPOSE.

The purpose of this chapter is to prohibit massage businesses and services to the public except those licensed by the city as therapeutic massage enterprises and massage therapists pursuant to this chapter. The license regulations prescribed herein are necessary in order to protect businesses that are operating legitimate enterprises, to prevent criminal activity, and to protect the health and welfare of the community. The purpose of this chapter is not to impose restrictions or limitations on the freedom of protected speech or expression.

(Ord. 632, passed 2-8-2016)

§ 117.02 DEFINITIONS.

The following words and terms when used for this chapter shall have the following meanings unless the context clearly indicates otherwise:

ACCREDITED INSTITUTION. An educational institution holding accredited status with the United States Department of Education or which has been licensed or registered by the Minnesota Office of Higher Education or similar agency of another state or a regional accrediting agency approved by the U.S. Department of Education.

ACCREDITED PROGRAM. A professional massage program accredited by the Commission on Massage Therapy Accreditation (COMTA).

CLEAN. The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

GOOD REPAIR. Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

ISSUING AUTHORITY. The City of Monticello.

MASSAGE. Any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or arms with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations.

MASSAGE THERAPIST. An individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:

(1) Has current insurance of $500,000 for professional liability in the practice of massage;

(2) Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and

(3) Has completed 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited program or accredited institution that has been approved by the issuing authority. These training hours must be authenticated by a single provider through a certified copy of the transcript of academic record from the school issuing the training, degree or diploma.

OPERATE. To own, manage, or conduct, or to have control, charge, or custody over.

PERSON. Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

THERAPEUTIC MASSAGE ENTERPRISE. A person who operates a business which hires only licensed therapeutic massage therapists to provide massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public.

WITHIN THE CITY. Includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from within the city.

(Ord. 632, passed 2-8-2016; Ord. 638, passed 4-25-2016)

§ 117.03 LICENSE REQUIREMENTS.

(A) Therapeutic massage enterprise license. It shall be unlawful for any person to operate, engage in, or carry on, within the city, any type of massage services to the public for consideration without first having obtained a therapeutic massage enterprise license from the city pursuant to this chapter.

(B) Massage therapist license. It shall be unlawful for any individual to practice, administer, or provide massage services to the public for consideration within the city without first having obtained a massage therapist license from the city pursuant to this chapter.

(Ord. 632, passed 2-8-2016)

§ 117.04 EXCEPTIONS.

A therapeutic massage enterprise or therapist license is not required for the following persons and places:

(A) Persons duly licensed as a doctor by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the massage is administered in the regular course of the medical business as it prepares the patient for a medical procedure or complements a medical procedure previously performed on the patient and not provided as part of a separate and distinct massage business. Any duly licensed doctor that offers any form of massage without a direct link to a medical procedure must obtain a massage license.

(B) Persons working solely under the direction and control of a duly licensed medical professional licensed under M.S. Ch. 147 or 148 or dental professional licensed under M.S. Ch. 150A, provided the massage is administered on the premise of the medical business.

(C) Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings provided the massage is administered only to the residents or patients of the facility as part of their care and not provided as a part of a separate service.

(Ord. 632, passed 2-8-2016)

§ 117.05 LICENSE APPLICATION.

(A) Therapeutic massage enterprise license application. An application for a therapeutic massage enterprise license shall be made on a form supplied by the city and issuing authority and shall request the following info:

(1) All applicants.

(a) Whether the applicant is an individual, corporation, partnership, or other form of organization.

(b) The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.

(c) The floor number, street number, and rooms where the massage services are to be conducted.

(d) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amount that are unpaid.

(e) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the Building and Inspection Division, no plans need to be submitted to the issuing authority.

(f) The name and street address of the business if it is to be conducted under a designation, name, or style other than the name of the applicant, and a certified copy of the certificate as required by M.S. § 333.02.

(g) The amount of the investment that the applicant has in the business, buildings, premises, fixtures, furniture, and equipment, and proof of the source of such investment. The identity of all other persons investing in the business, building premises, fixtures, furniture and equipment, the amount of their investment and proof of the source of such investment.

(h) Such other information as the City Council or issuing authority shall require.

(2) Individuals.

(a) The name, place and date of birth, and street residence address of the applicant.

(b) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.

(c) Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.

(d) Street addresses at which the applicant has lived during the preceding five years.

(e) The type, name, and location of every business or occupation the applicant has been engaged in during the preceding five years.

(f) Names and addresses of the applicant's employers for the preceding five years.

(g) Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense. If so, the applicant shall furnish information as to the time, place and offense, for which convictions were had.

(h) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license application is submitted to the issuing authority.

(i) Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place, and length of time of the involvement in such an establishment.

(3) Partnerships. For the applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in division (2) of this section. The managing partners shall be designated, and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and if the partnership is required to file a certificate as to a trade name under M.S. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.

(4) Corporations and other organizations. For applicants that are corporations or other types of organizations:

(a) The applicant's name and current address.

(b) The applicant's current employer.

(c) The applicant's employers for the previous five years, including the employer's name, address and dates of employment.

(d) The applicant's address for the previous five years.

(e) The applicant’s date of birth, home telephone number, weight, height, color of eyes, and color of hair.

(f) Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense, and, if so, the time, place, and offense which convictions were had.

(g) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority.

(B) Massage therapist license application. An application for a massage therapist license shall be made on a form supplied by the issuing authority and shall request the following information:

(1) The applicant's name and address.

(2) The applicant's current employer.

(3) The applicant's employers for the previous five years, including the employer’s name, address, and dates of employment.

(4) The applicant's addresses for the previous five years.

(5) The applicant's date of birth, home telephone number, weight, height, color of eyes, and color of hair.

(6) Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, and offense for which convictions were had.

(7) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority.

(8) Whether the applicant is a U.S. Citizen or resident alien or has the legal authority to work in the United States.

(9) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.

(10) Whether the applicant has met the definition of massage therapist in this chapter.

(11) Such other information as the City Council or issuing authority shall require.

(Ord. 632, passed 2-8-2016)

§ 117.06 LICENSE FEES.

The fees for a therapeutic enterprise and therapist licenses shall be as set forth in the fee schedule in § 36.01 of this code. An investigation fee shall be charged for therapeutic massage enterprise licenses. Each application for a license shall be accompanied by payment in full of the required license and investigation fees, if applicable.

(Ord. 632, passed 2-8-2016)

§ 117.07 LICENSE APPLICATION VERIFICATION AND CONSIDERATION.

(A) Therapeutic massage enterprise license. The initial application for an enterprise license under this section shall be presented to the City Council for consideration, after the issuing authority has verified the information on the initial license. The issuing authority is empowered to conduct any and

all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The City Council may accept or deny the license application per this chapter.

(B) Massage therapist license.

(1) Verification and consideration. Within a reasonable period after receipt of a complete application and fee for a massage therapist license the city shall grant or deny the application. The city and/or the Wright County Sheriff's Office will conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. Notice shall be sent by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the City Council within 20 days. If an appeal is properly made, the matter shall be placed on the next available City Council agenda.

(2) Photo I.D. cards. Photo identification cards shall be issued to individuals receiving a therapeutic massage therapist license.

(Ord. 632, passed 2-8-2016)

§ 117.08 PERSONS INELIGIBLE FOR LICENSE.

(A) Therapeutic massage enterprise license. No therapeutic massage enterprise license shall be issued to a person who:

(1) Is not 18 years of age or older at the time the application is submitted to the issuing authority.

(2) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by M.S. § 364.03, subd. 3.

(3) Has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority.

(4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States.

(5) Is not of good moral character or repute.

(6) Is not the real party in interest of the enterprise.

(7) Has knowingly misrepresented or falsified information on the license application.

(8) Cannot meet the definition of therapeutic massage enterprise in § 117.02 of this chapter.

(9) Owes taxes or assessments to the state, county, school district, or city that are due and delinquent.

(10) Is the spouse of a person whose massage-related license has been suspended or revoked in the past five years.

(B) Massage therapist license. No massage therapist license shall be issued to a person who:

(1) Is not 18 years of age or older at the time the application is submitted to the issuing authority.

(2) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by M.S. § 364.03, subd. 3.

(3) Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority.

(4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States.

(5) Is not of good moral character or repute.

(6) Has knowingly misrepresented or falsified information on the license application.

(7) Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the city.

(8) Cannot meet the definition of massage therapist in § 117.02 of this chapter.

(Ord. 632, passed 2-8-2016)

§ 117.09 LOCATIONS INELIGIBLE FOR THERAPEUTIC MASSAGE ENTERPRISE LICENSE.

(A) Delinquent taxes. No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which taxes,

assessments, or other financial claims to the state, county, school district, or city are due and delinquent. In the event a suit has been commenced under M.S. §§ 278.01-278.13, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

(B) Improper zoning. No therapeutic massage enterprise shall be licensed if the location of such enterprise has not obtained a conditional use permit or other required land use approval as outlined in the city's zoning code.

(Ord. 632, passed 2-8-2016)

§ 117.10 LICENSE RESTRICTIONS.

(A) Posting of license. A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used. Upon the demand of the City Administrator or designee, a therapeutic massage enterprise must also immediately produce a current and complete list of all licensed massage therapists who are employed by the therapeutic massage enterprise. A person licensed as a massage therapist shall also post his or her massage therapist license, with color photo, in a conspicuous place on the premises at which the therapist is associated. A massage therapist shall produce his or her massage therapist license upon demand by the City Administrator or designee.

(B) Licensed premises. A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the city within ten business days. It shall be the continuing duty of each licensee to properly notify the city, within ten business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this section shall constitute cause for revocation or suspension of such license.

(C) Transfer of license prohibited. The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(D) Affiliation with enterprise required. A massage therapist shall be employed by, affiliated with, or own a massage enterprise business licensed by the city, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license in § 117.04 of this chapter.

(E) Employment of unlicensed massage therapists prohibited. No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this section, unless the person is specifically exempted from obtaining a massage therapist license in § 117.04 of this chapter.

(F) Coverage of genitals during massage. The licensee shall require that the person who is receiving the massage shall at all time have his or her genitals covered with non-transparent material or clothing.

(G) Therapist clothing requirements. Any massage therapist performing a massage shall at all times be dressed professionally, shall have his or her breasts, buttocks, anus, and genitals covered with non-transparent material or clothing, and prominently display or wear their photo identification card.

(H) Effect of license suspension or revocation. No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the city.

(I) Massage of certain body parts prohibited. At no time shall the massage therapist intentionally massage or offer to massage the penis, scrotum, mons veneris, vulva, or vaginal area of a person.

(J) Restrictions regarding hours of operation. No therapeutic massage enterprise shall be open for business, nor will any therapeutic massage therapist offer massage services, before 6:00 a.m. or after 10:00 p.m. any day of the week.

(K) Proof of local residency required. In the case of a therapeutic massage enterprise, the licensee, operator, managing partner, or manager of the licensed premise must show proof of residency within a 50 mile radius of the City of Monticello.

(L) Inspections. In light of the high risk of involvement with illegal conduct, an establishment providing massage therapy poses to the general public and in the interests of public safety, the issuing authority, the Building Inspector, the Fire Marshal, and the Wright County Sheriff's Office shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this section and any other applicable sections of the City Code and State Building Code. Any entry into a private residence will require either consent, exigent circumstances, or a search warrant. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for business. The licensee is subject to a fee for a third inspection per the fee schedule, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Licenses shall be granted only to

establishments which can meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.

(M) Posting of rates. All massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the business.

(N) Illegal activities. In addition to the license restrictions set forth in this section, any advertising by a licensee of any potential unlawful or erotic conduct at the licensed establishment shall be prohibited. A licensee under this chapter shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.

(Ord. 632, passed 2-8-2016)

§ 117.11 TERM, RENEWAL OF LICENSE.

(A) The term of a massage therapist license and a therapeutic massage enterprise license is one year. If an individual or enterprise submits an application any time during a calendar year, the term shall expire June 30 of the year of issuance. The license fee for a partial calendar year may be pro-rated to one-half of the annual fee if an application is filed with the issuing authority after December 31.

(B) Licenses must be renewed annually and the annual fee will be applied. A massage therapist license issued under this section shall expire on June 30 of the year of issuance of the license. A therapeutic massage enterprise license issued under this section shall expire on June 30 of the year of issuance. An application for the renewal of an existing license shall be made at least 30 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires.

(C) Within a reasonable period after the completion of the renewal license verification process, the issuing authority shall accept or deny the license application in accordance with this chapter. If the application is denied, the city shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the city's denial to the City Council. If an appeal to the City Council is timely received by the city, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the issuing authority.

(Ord. 632, passed 2-8-2016; Ord. 647, passed 6-13-2016)

§ 117.12 SANCTIONS FOR LICENSE VIOLATIONS.

(A) Suspension or revocation. The City Council may impose an administrative penalty, suspend or revoke a license issued pursuant to this section, at its discretion, for:

(1) A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.

(2) A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.

(3) Any violation of this code or state law.

(4) A violation by any licensee or individual that is directly related to the occupation or business licensed as defined by M.S. § 364.03, subd. 2.

(5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

(6) If the owner, operator, manager, lessee, or any of the employees are found to be in control or possession of a narcotic drug, or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription.

(7) If the holder of an enterprise license fails to maintain with the issuing authority a current list of all employees of such licensed premises. The list shall include all massage therapists licensed under this section.

(8) A material variance in the actual plan and design of the premises from the plans submitted.

(B) Notice and hearing. A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

(Ord. 632, passed 2-8-2016)

§ 117.99 PENALTIES.

Any person or entity that violates the provisions of this chapter is guilty of a misdemeanor under Minnesota law, and shall be punished by a fine or imprisonment, or both, together with the costs of prosecution. Each violation of this section shall constitute a separate offense. Conviction of a violation of this chapter, while not required, may be grounds for the suspension or revocation of any license issued under this chapter.

(Ord. 632, passed 2-8-2016)

TITLE XIII: GENERAL OFFENSES

Chapter

130. UNLAWFUL CONDUCT

131. GAMBLING AND ENTERTAINMENT

132. FIREARMS

CHAPTER 130: UNLAWFUL CONDUCT

Section

130.01 Assault

130.02 Unlawful assembly

130.03 Presence at unlawful assembly

130.04 Disorderly conduct

130.05 Obstructing legal process or arrest

130.06 Minors; possession

130.07 Theft

130.08 Curfew

130.09 Noise

130.99 Penalty

§ 130.01 ASSAULT.

Whoever does any of the following commits an assault, is guilty of a misdemeanor, and may be sentenced as provided in § 10.99:

(A) Does any act with intent to cause fear in another of immediate bodily harm or death; or

(B) Intentionally inflicts or attempts to inflict bodily harm upon another.

(Prior Code, § 6-1-1) Penalty, see § 130.99

§ 130.02 UNLAWFUL ASSEMBLY.

When three or more persons assemble, then each participant is guilty of a misdemeanor and may be sentenced as provided in § 10.99 if the assembly is:

(A) With intent to commit an unlawful act by force;

(B) With intent to carry out any purpose in such a manner as will disturb or threaten the public peace; or

(C) Without unlawful purpose, but the participants so conduct themselves in a disorderly manner as to disturb or threaten the public peace.

(Prior Code, § 6-1-2) Penalty, see § 130.99

§ 130.03 PRESENCE AT UNLAWFUL ASSEMBLY.

Whoever, without lawful purpose, is present at the place of an unlawful assembly and refuses to leave when so directed by a law enforcement officer is guilty of a misdemeanor and may be sentenced as provided in § 10.99.

(Prior Code, § 6-1-3) Penalty, see § 130.99

§ 130.04 DISORDERLY CONDUCT.

Whoever does any of the following in a public or private place, knowing, or having reasonable grounds to know that it will or will tend to alarm, anger, or disturb others or provoke an assault or breach of peace, is guilty of a misdemeanor and may be sentenced as provided in § 10.99:

(A) Engage in brawling or fighting;

(B) Disturbs an assembly or meeting not unlawful in its character; or

(C) Looks, peers, or peeps into the window of any structure not in his or her own property, which structure if occupied or is intended to be occupied as a residence, or loiters around or within view of any window with the intent of watching or looking through said window.

(Prior Code, § 6-1-4) Penalty, see § 130.99

§ 130.05 OBSTRUCTING LEGAL PROCESS OR ARREST.

Whoever intentionally obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction or a criminal offense, is guilty of a misdemeanor and may be punished as provided in § 10.99.

(Prior Code, § 6-1-5) Penalty, see § 130.99

§ 130.06 MINORS; POSSESSION.

It shall be unlawful for a minor to have in his or her possession any intoxicating liquor or any non-intoxicating malt liquor with intent to consume the same at a place other than the household of his or her parent or guardian. Possession of such intoxicating liquor or non-intoxicating malt liquor at a place other than the household of his or her parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his or her parent or guardian. A person violating a provision of this section is guilty of a misdemeanor and may be sentenced as provided in § 10.99.

(Prior Code, § 6-1-7) Penalty, see § 130.99

§ 130.07 THEFT.

Whoever intentionally and without claim or right takes, uses, transfers, conceals, or retains possession of the property of another where the value of the property is $100 or less without his or her consent, and with intent to deprive the owner permanently of possession of the property, is guilty of a misdemeanor and may be sentenced as provided in § 10.99.

(Prior Code, § 6-1-8) Penalty, see § 130.99

§ 130.08 CURFEW.

(A) Purpose. The curfew for minors established by this section is maintained for four primary reasons:

(1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

(B) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or Fire Department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Wright County Sheriff's Office.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or PRIMARY CUSTODY. The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) Hours.

(1) Minors under the age of 16 years. No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.

(2) Minors ages 16 years to 18 years. No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, official city time.

(D) Effect on control by adult responsible for minor. Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) Exceptions. The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession, or occupation and the minor’s residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor’s presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor’s parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To minors on the sidewalk abutting their residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city’s designated law enforcement provider about the minor’s presence; or

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) Duties of person legally responsible for minor. No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) Duties of other persons. No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) Defense. It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave. Penalty, see § 130.99

§ 130.09 NOISE.

(A) Purpose. It is recognized that loud, unpleasant, raucous, or prolonged noise has a harmful, debilitating, and detrimental effect upon human beings, adversely affecting their mental and physical health, safety, and well being. Loud, unpleasant, raucous, or prolonged noise is hereby declared to be a public nuisance. In an endeavor to provide for the mental and physical health, safety, and well being and for peaceful repose of the citizens and neighborhoods of the city, it is hereby declared to be in the public interest that loud, unpleasant, raucous, and unnecessary or prolonged noise be abated.

(B) Prohibited noise. The following are declared to be nuisances affecting public health, safety, peace, or welfare:

(1) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes his or her enjoyment of property, or affects his or her property's value in such a manner as to be plainly audible at the boundary of the real property, building, structure, or residence from which the noise originates, or at a distance of 50 feet from the source of the noise. (This general prohibition is not limited by any specific restrictions provided in this section). PLAINLY AUDIBLE is defined as sound that can be detected by a person using their unaided hearing faculties;

(2) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. Rules. Ch. 7030, as it may be amended from time to time, are hereby incorporated into this section by reference;

(3) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;

(4) The discharging of the exhaust or permitting the discharge of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle (ATV), snowmobile, or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(5) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle; and

(6) The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly manner so as to disturb the peace, quiet, and comfort of any person nearby.

(C) Hourly restriction of certain operations.

(1) Domestic power equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. Snow removal equipment is exempt from this provision.

(2) Refuse hauling. No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) Construction activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m.

(4) Radios, music devices, paging systems, and the like. The operation of any device referred to in division (B)(6) above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

(D) Noise impact statements. The City Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each statement

and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.

(E) Enforcement. A peace officer may order all persons present in any group or gathering from which such noise emanates or other than the owners or tenants of a dwelling unit to immediately disperse from the party in lieu of being charged under this section. Refusal to disperse is a violation of the section.

(F) Street noise. No person between the hours of 7:00 p.m. and 7:00 a.m. shall operate a radio, stereo, tape player, or any other mechanical device other than an automobile engine on the highways, streets, parking lots, alleys, sidewalks, or other public property within the city which is audible at a distance of 25 feet.

(G) Engine brakes and compression brakes unlawful. It shall be unlawful within the city for the driver of any vehicle to use or operate or cause to be used or operated any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle which results in the excessive, loud, unusual, or explosive noise from such vehicle.

(Prior Code, § 6-1-10) (Ord. 745, passed 8-10-2020; Ord. 745A, passed 8-10-2020) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(2) Violation of § 130.09 is a petty misdemeanor punishable by not more than the maximum penalty as prescribed by state law.

(Prior Code, § 6-1-10)

(Ord. 22, passed 11-11-1976; Ord. 165, passed 10-11-1988; Ord. 358, passed 1-8-2001)

CHAPTER 131: GAMBLING AND ENTERTAINMENT

Section

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LAWFUL GAMBLING REGULATIONS

§ 131.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. 349, as it may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this subchapter as if set out in full. It is the intention of the City Council that all future amendments of M.S. Ch. 349, as it may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this subchapter was adopted.

(Prior Code, § 3-12-1)

§ 131.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The City Council is authorized by the provisions of M.S. § 349.213, as it may be amended from time to time, to impose, and has imposed in this subchapter, additional restrictions on gambling within its limits beyond those contained in M.S. Ch. 349, as it may be amended from time to time.

(Prior Code, § 3-12-2)

§ 131.03 PURPOSE.

The purpose of this subchapter is to regulate lawful gambling within the city, to prevent its commercialization, to ensure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

(Prior Code, § 3-12-3)

§ 131.04 DEFINITIONS.

In addition to the definitions contained in M.S. § 349.12, as it may be amended from time to time, the following terms are defined for purposes of this subchapter.

BOARD. The State of Minnesota Gambling Control Board.

CITY. The City of Monticello.

COUNCIL. The City Council of the City of Monticello.

LICENSED ORGANIZATION. An organization licensed by the Board.

LOCAL PERMIT. A permit issued by the city.

TRADE AREA. The corporate limits of the city and the boundaries of all townships contiguous to the city.

(Prior Code, § 3-12-4)

§ 131.05 APPLICABILITY.

This subchapter shall be construed to regulate all forms of lawful gambling within the city except:

(A) Bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed $10, total prizes awarded at a single bingo occasion do not exceed $200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo; and

(B) Excluded and exempt gambling permits issued on a temporary basis to qualified non-profit organizations and in accordance with state laws and rules. Temporary permit applications requiring city signature shall be presented to City Council for approval within 30 days of receipt of application and prior to returning a signed permit application to the requesting organization.

(Prior Code, § 3-12-5)

§ 131.06 GAMBLING PROHIBITED.

No person or organization shall conduct gambling within the city unless licensed by the state or city or specifically exempted by state law or this subchapter from the license requirement.

(Prior Code, § 3-12-6) Penalty, see § 131.99

§ 131.07 LAWFUL GAMBLING PERMITTED.

Lawful gambling is permitted within the city provided it is conducted in accordance with M.S. §§ 609.75 through 609.763, inclusive, as they may be amended from time to time; M.S. §§ 349.11 through 349.23, inclusive, as they may be amended from time to time; and this subchapter.

(Prior Code, § 3-12-7)

§ 131.08 COUNCIL APPROVAL.

Lawful gambling authorized by M.S. §§ 349.11 through 349.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the City Council, subject to the provisions of this subchapter and state law.

(Prior Code, § 3-12-8)

§ 131.09 APPLICATION AND LOCAL APPROVAL OF PREMISES PERMITS.

(A) Any organization seeking to obtain a premises permit from the Board shall file with the City Clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as will be filed with the Board.

(B) Upon receipt of an application for issuance of a premises permit, the City Clerk shall have the Gambling Manager complete a background check form and submit to the city’s designated person for processing.

(C) The designated person shall perform the background check and submit response to the City Clerk as soon as possible following receipt of the notification to the city.

(D) Organizations applying for a state issued premises permit shall pay the city a $100 investigation fee. This fee shall be refunded if the application is withdrawn before the investigation is commenced.

(E) The applicant shall be notified of the date on which the City Council will consider the recommendation.

(F) The City Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application.

(G) The City Council may deny an application for issuance of a premises permit for any of the following reasons:

(1) Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three years;

(2) Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice and protection of public safety within the last three years;

(3) Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued; or

(4) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

(Prior Code, § 3-12-9)

§ 131.10 LOCAL PERMITS.

(A) No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by M.S. § 349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by § 131.05.

(B) Applications for issuance of a local permit shall be on a form prescribed by the city.

(C) The fee for a local permit shall be $25 or as otherwise set by the City Council in its annual fee ordinance. The fee shall be submitted with the application for a local permit. This fee shall be refunded if the application is withdrawn before the investigation is commenced.

(D) Upon receipt of an application for issuance of a local permit, the City Clerk shall review the application and may direct the conduct of a background investigation.

(E) The City Council may deny an application for issuance of a local permit for any of the following reasons specified in § 131.09(G).

(Prior Code, § 3-12-10) Penalty, see § 131.99

§ 131.11 REVOCATION AND SUSPENSION OF LOCAL PERMIT.

(A) A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling.

(B) A license shall not be revoked or suspended until written notice and an opportunity for a hearing have first been given to the permitted person.

(Prior Code, § 3-12-11)

§ 131.12 LICENSE AND PERMIT DISPLAY.

All permits issued under state law or this subchapter shall be prominently displayed at the premises where gambling is conducted.

(Prior Code, § 3-12-12)

§ 131.13 NOTIFICATION OF MATERIAL CHANGES TO APPLICATION.

An organization holding a state issued premises permit shall notify the city within ten days in writing whenever any material change is made in the information submitted on the application.

(Prior Code, § 3-12-13)

§ 131.14 DESIGNATED TRADE AREA.

Each organization licensed to conduct gambling within the city shall expend 75% or more of its lawful purpose expenditures on lawful purposes conducted within the city’s trade area. This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premise within the city’s jurisdiction.

(Prior Code, § 3-12-14)

§ 131.15 RECORDS AND REPORTING.

Organizations conducting lawful gambling shall file with the office of the City Clerk one copy of all records and reports required to be filed with the Board, pursuant to M.S. Ch. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board. Organizations licensed by the Board shall file a report with the city proving compliance with the trade area

spending requirements imposed by § 131.14. The report shall be provided in a manner prescribed by the city and shall be submitted annually.

(Prior Code, § 3-12-15)

§ 131.16 HOURS OF OPERATION.

Lawful gambling shall not be conducted between 2:00 a.m. and 8:00 a.m. on any day of the week and shall be consistent with hours of operation at the business where gambling is being conducted.

(Prior Code, § 3-12-16) Penalty, see § 131.99

BINGO GAMES

§ 131.30 PURPOSE.

The purpose of this subchapter is to closely regulate and control the conduct of the game of bingo and to prohibit commercialization of bingo.

(Prior Code, § 3-8-1)

§ 131.31 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACTIVE MEMBER. A member of the organization requesting a license whose dues are paid for the current membership period and who has been a member for at least six months.

BINGO. A game where each player has a card or board for which a consideration has been paid containing five horizontal rows of spaces with each row except the central one containing five figures. The central row has four figures with the word “free” marked in the center space thereof. A player wins a game of BINGO by completing any pre-announced combination of spaces or, in the absence of a pre-announcement of a combination of spaces, any combination of five spaces in a row, either vertical, horizontal, or diagonal.

BINGO OCCASION. A single gathering or session at which a series of one or more successive bingo games is played.

ELIGIBLE ORGANIZATION. Any fraternal, religious, veteran's, or other nonprofit organization which has been in existence for at least three years and has at least 30 active members.

PROFIT. The gross receipts collected from one or more bingo occasions less reasonable sums necessarily and actually expended for bingo supplies and equipment, prizes, rent, and utilities used during the bingo occasions, bingo license fees, and compensation to persons lawfully hired to conduct or assist in conducting a bingo occasion.

(Prior Code, § 3-8-2)

§ 131.32 LICENSE REQUIRED.

(A) No bingo occasion shall be conducted except by an eligible organization which has secured a license for that purpose as provided in this subchapter. An organization which is otherwise eligible for a license need not secure a license when bingo games are conducted fewer than five times in a year.

(B) (1) A license shall be valid for 12 calendar months from the date of issuance.

(2) The annual license fee shall be adopted by the City Council.

(3) No bingo license issued may be transferred to any other person or organization. No bingo license shall be transferred to any location other than the location specified in the license without prior approval by the City Council.

(Prior Code, § 3-8-3) (Ord. 19, passed 9-13-1976; Ord. 107, passed 11-23-1981)

§ 131.33 LICENSE APPLICATIONS.

Every application for a bingo license shall be made to the City Clerk on a form supplied by the city and containing such information as the Clerk or the City Council may require. No person shall make a false statement in an application. Copies of each application shall be referred to the city's Police Chief, Fire Chief, and Building Inspector for their recommendations.

(Prior Code, § 3-8-4)

§ 131.34 SUSPENSION OR REVOCATION.

The City Council may suspend for a period not exceeding 60 days or revoke any bingo license for violation of any provision of M.S. Ch. 349, as it may be amended from time to time, or this subchapter. The holder of the license shall be granted a hearing upon at least ten days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

(Prior Code, § 3-8-5)

§ 131.35 CONDUCT OF BINGO.

(A) Each licensed organization shall appoint a bingo manager to supervise bingo occasions conduct by it. The bingo manager must be a member of the licensed organization with dues paid for the current membership period and must have been a member of the organization for at least two years. The bingo manager shall give a fidelity bond in the sum of $10,000 in favor of the organization conditioned on the faithful performance of his or her duties, except that the City Council may waive the bond requirement upon a showing by the proposed bingo manager and the licensed organization that bond is not required to protect the organization and upon a unanimous vote of the Council. Terms of the bond shall provide that notice shall be given in writing to the Council not less than 30 days prior to its cancellation. Each bingo occasion shall be conducted under the direct supervision of the bingo manager, who shall be responsible for the conduct of the bingo occasion in compliance with all applicable laws and ordinances. No person shall act as bingo manager for more than one organization.

(B) One or more checkers shall be engaged for each bingo occasion. The checkers shall be active members of the licensed organization or spouses of active members of the licensed organization. The checker or checkers shall record the number of cards purchased and played in each game prior to the completion of each game and record the prizes awarded to the recorded cards. Each checker shall certify all figures which he or she has recorded as accurate and correct to the best of his or her knowledge on forms prescribed by the City Clerk.

(C) Additional persons may be engaged for other duties in connection with bingo occasions as needed, but no person shall assist in the conduct of a bingo occasion who is not an active member of the licensed organization or the spouse of an active member of the licensed organization.

(D) No person shall receive more than $12 as compensation for any duties in connection with any one bingo occasion.

(E) No more than 104 bingo occasions each year or two bingo occasions each week shall be conducted by any licensed organization.

(F) A bingo occasion shall not continue for more than four consecutive hours.

(Prior Code, § 3-8-6)

§ 131.36 BINGO ON LEASED PREMISES.

(A) Any person, corporation, or eligible organization which leases any premises that it owns to two or more eligible organizations for purposes, including the conduct of bingo occasions, shall not allow more than four bingo occasions to be conducted on the premises in any week.

(B) Any eligible organization which leases any premises to one or more other eligible organizations for purposes, including the conduct of bingo occasions, shall use the proceeds of the rental less reasonable sums for maintenance, furnishings, and other necessary expenses only for the uses for which bingo profits may be used as set out in § 131.42. Not less than once each year the lessor organization shall report to the City Council the disposition of all receipts which it has received during the reporting period from the rental of its facilities to other organizations for purposes, including the conduct of bingo occasions.

(C) No eligible organization shall conduct bingo on any leased premises without a written lease for a term at least equal to the remainder of the term of the bingo license of the lessee organization. Lease payments shall be at a fixed monthly rate or rate per bingo occasion not subject to change during the term of the lease. No lease shall provide that rental payments be based on a percentage of receipts or profits from bingo occasions.

(Prior Code, § 3-8-7)

§ 131.37 PRIZES.

(A) Prizes for a single bingo game shall not exceed $100 except prizes for a game of the type commonly known as a “cover-all” game. “Cover-all” prizes may exceed $100 provided that the aggregate value of the prizes for a bingo occasion shall not exceed $500. The aggregate value of prizes for a bingo occasion shall not exceed $2,500, except that in the case of bingo occasion during which a “cover-all” game is played for a maximum prize of more than $100 but less than $500, the aggregate value of prizes for the bingo occasion shall not exceed $3,000. Merchandise prizes shall be valued at fair market retail value.

(B) Each bingo winner shall be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted.

(Prior Code, § 3-8-8)

§ 131.38 RECORDS.

(A) Each licensed organization shall keep records of its gross receipts and profits for each bingo occasion. All deductions from gross receipts from a bingo occasion shall be documented with receipts of other records. The distribution of profits shall be itemized as to payee, amount, and date of payment. Records required by this subchapter shall be preserved for three years.

(B) Gross receipts shall be compared to the checkers' records for the bingo occasion by a person who did not sell cards for the bingo occasion. If a discrepancy exceeding $20 is found between the amount of gross receipts for a bingo occasion as determined by the checkers' records and the amount of gross receipts as determined by totaling the cash receipts, the discrepancy shall be reported to and investigated by the City Council.

(C) Bingo gross receipts shall be segregated from other revenues of an organization and placed in a separate account. Each organization shall maintain separate records of its bingo operations. The person who accounts for bingo gross receipts and profits shall not be the same person who accounts for other revenues of the licensed organization.

(Prior Code, § 3-8-9)

§ 131.39 REPORTS.

(A) Each licensed organization shall report monthly to its membership its gross receipts from bingo, its profits from bingo, and the distribution of those profits itemized as required by § 131.38.

(B) At the time of making its first license application under this subchapter and on an annual basis thereafter, each licensed organization shall file with the City Council copies of the following:

(1) The most recently filed Department of the Treasury, Internal Revenue Service, Return of Organization Exempt from Income Tax, Form 990, or a comparable form if the organization is required to file the form with the Department of the Treasury;

(2) The most recently filed Department of the Treasury, Internal Revenue Service, Exempt Organization Business Income Tax, Form 990-T, or a comparable form if the organization is required to file the form with the Department of the Treasury;

(3) The most recently filed annual report required of charitable organizations by M.S. § 309.53, as it may be amended from time to time, provided that an organization that is licensed to conduct bingo but is exempt from submitting this report to the Department of Commerce under M.S. § 309.53, subd. Ia, as it may be amended from time to time, shall nevertheless submit such a report under this subdivision;

(4) The most recently filed state's Department of Commerce Statement of Bingo Operations. All information contained in the statement shall be true, correct, and complete to the best of the knowledge of the persons signing the statement; and

(5) Any lease agreements required by this act executed by the organization in regard to premises leased for the conduct of bingo.

(C) No person shall knowingly make a false statement in any report required by this section.

(Prior Code, § 3-8-10) Penalty, see § 131.99

§ 131.40 INSPECTION AND INVESTIGATION.

Any city official or employee having a duty to perform with reference to a bingo license and any police officer may inspect and examine the bingo records of any licensed organization upon 24 hours' notice.

(Prior Code, § 3-8-11)

§ 131.41 USE OF BINGO RECEIPTS.

No expense shall be incurred or amounts paid in connection with the conduct of bingo except those reasonably expended for bingo supplies and equipment, prizes, rent, or utilities used during the bingo occasion, bingo license fees, and compensation to persons lawfully hired to conduct or assist in conducting a bingo occasion.

(Prior Code, § 3-8-12)

§ 131.42 USE OF BINGO PROFITS.

(A) Profits from any bingo occasion shall be expended only as authorized by a resolution recorded in the official minutes at a regular meeting of the licensed organization and only for one or more of the following purposes:

(1) Benefitting persons by enhancing their opportunity for religious or education advancement, by relieving or protecting them from disease,

suffering, or distress, by contributing to their physical well being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(2) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures;

(3) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people; or

(4) The improving, expanding, maintaining, or repairing of real property owned or leased by the licensed organization.

(B) Profits from bingo occasions shall not be expended for the erection or acquisition of any real property unless the City Council specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this section.

(Prior Code, § 3-8-13)

§ 131.43 EXEMPTIONS.

Bingo may be conducted without complying with the requirements of §§ 131.35(E) and (F) and 131.36 if conducted:

(A) In connection with the county fair conducted by the county agricultural society or in connection with a civic celebration recognized by resolution of the City Council, provided that bingo shall not be conducted for more than 12 days during any one county fair or recognized civic celebration; or

(B) By an organization that conducts fewer than five bingo occasions in any calendar year.

(Prior Code, § 3-8-14)

§ 131.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who violates any provision of §§ 131.01 through 131.16; M.S. §§ 609.75 through 609.763, inclusive, as they may be amended from time to time; or M.S. §§ 349.11 through 349.191, as they may be amended

from time to time, or any rules promulgated under those sections, as they may be amended from time to time, shall be guilty of a misdemeanor and subject to a fine of not more than $1,000 or imprisonment for a term not to exceed 90 days, or both, plus in either case the costs of prosecution. In addition, violations shall be reported to the Board and recommendation shall be made for suspension, revocation, or cancellation of an organization’s license.

(Prior Code, § 3-12-17)

(C) Any person violating any provision of §§ 131.30 through 131.43 is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 3-8-15)

(Ord. 358, passed 1-8-2001)

CHAPTER 132: FIREARMS

Section

132.01 Hunting

132.02 Discharge, carrying firearms

132.03 Destruction of diseased, injured, dangerous animals authorized

132.04 Licensing of ranges

§ 132.01 HUNTING.

No person shall hunt, take, capture, shoot, or trap any animals within the corporate limits of the city unless excepted in § 132.03 of this chapter.

§ 132.02 DISCHARGE, CARRYING FIREARMS.

No person, except a police officer in the performance of duty, shall, within the city, discharge any gun, pistol, or firearm of any description or carry any such weapon, unless it is dismantled or broken apart, or carried in a case in such a manner that it cannot be discharged. This section does not prevent the carrying of a hand gun within the city under a permit subject to the restrictions imposed by law or exception of use at ranges licensed under § 132.04 of this chapter.

§ 132.03 DESTRUCTION OF DISEASED, INJURED, DANGEROUS ANIMALS AUTHORIZED.

The City Council or the Wright County Sheriff may specifically authorize any person to destroy diseased, injured or dangerous animals.

§ 132.04 LICENSING OF RANGES.

All owners of rifle, trap, archery and target ranges available to the public, shall, be required to obtain a permit to operate such ranges with a fee prescribed in the city fee schedule ordinance. The shooting of firearms shall be restricted to between the hours of 10:00 a.m. and 10:00 p.m. Violation of any of the terms of such regulations shall constitute a violation of this chapter and can be cause for revocation of the license granted under the terms of the chapter.

TITLE XV: LAND USAGE

Chapter

150. BUILDING CODES

151. UTILITY EXCAVATIONS

152. SUBDIVISIONS

153. ZONING

CHAPTER 150: BUILDING CODES

Section

Building Code

150.01 Intent and purpose

150.02 Building Code

150.03 Application, administration, and enforcement

150.04 Permits and fees

150.05 Plumbing permit regulations

150.06 Waiver of fees for certain disabled veterans

150.07 Posting of address numbers

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150.20 Adoption

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Moving Buildings

150.35 Moving buildings; regulations

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Swimming Pool Regulations

150.50 Adoption of state regulations

150.51 Fees

150.52 Enforcement

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BUILDING CODE

§ 150.01 INTENT AND PURPOSE.

This is a subchapter adopting the state’s Building Code. This subchapter provides for the application, administration, and enforcement of the state’s Building Code by regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings and/or structures in the city; provides for the issuance of permits and collection of fees thereof; provides penalties for violation thereof; and repeals all ordinances and parts of ordinances that conflict therewith.

(Prior Code, § 4-1-1)

§ 150.02 BUILDING CODE.

(A) The state’s Building Code, established pursuant to M.S. §§ 326B.101 through 326B.194, as they may be amended from time to time, is hereby adopted as the building code for this jurisdiction.

(B) The code, its supplements, amendments, additions, addenda, alterations, subtractions, and revisions as currently adopted and which may in the future be adopted and incorporated as part of the code, is hereby

confirmed as the building code of the city and hereby incorporated in this subchapter as if fully set out herein.

(Prior Code, § 4-1-2) (Ord. 391, passed 6-9-2003)

§ 150.03 APPLICATION, ADMINISTRATION, AND ENFORCEMENT.

(A) The application, administration, and enforcement of the code shall be in accordance with the state's Building Code. The code shall be enforced within the incorporated limits of the city, and any extra-territorial limits permitted by M.S. § 326B.121, as it may be amended from time to time, when so established by this subchapter.

(B) The code enforcement agency of this municipality is called the Department of Building Safety. A state certified Building Official must be appointed by the City Council to administer the code.

(Prior Code, § 4-1-3) (Ord. 391, passed 6-9-2003)

Statutory reference:

Appointment of Building Official, see M.S. § 326B.133

§ 150.04 PERMITS AND FEES.

(A) The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.121, as it may be amended from time to time, and as provided for in the Minnesota State Building Code and Minn. Rules parts 1305.0106 and 1305.0107.

(B) Permit fees assessed for work governed by this code shall be established by the City Council.

(C) A surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 326B.148, as it may be amended from time to time.

(Prior Code, § 4-1-4) (Ord. 391, passed 6-9-2003)

§ 150.05 PLUMBING PERMIT REGULATIONS.

Prior to the installation by any person, corporation, or public agency, of a system of plumbing that serves any considerable number of persons, or any plumbing system that shall affect the public health in any manner, complete plans and specifications, together with any additional information that the Building Official may require, shall be submitted in duplicate and approved

by the Building Official. The appraisal of the Building Official shall reflect the degree to which these plans and specifications affect the public health and conform to the provisions of the state's Plumbing Code. No constructions shall proceed except in accordance with the approved plans. Any alteration or extension of an existing plumbing system shall be subject to these same requirements.

(Prior Code, § 4-1-8) (Ord. 293, passed 5-27-1997)

§ 150.06 WAIVER OF FEES FOR CERTAIN DISABLED VETERANS.

(A) Findings and intent. The city hereby finds that the men and women who gave their service in the Unites States Armed Forces are in need of our honor and respect. These men and women have paid for the country's freedom by giving up their families, lives they knew, and their flesh and their blood to ensure the preservation of democracy. Many of these veterans have returned to their families, friends, and homes with special needs directly related to their performed duties. The city honors these individual sacrifices by waiving the permit fees for remodeling projects and building modifications needed to an existing structure.

(B) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERMANENT OR LONG-TERM DISABILITY. A physical disability that is medically expected to exist for a period of 12 months or longer.

QUALIFIED VETERAN. An individual that has received an honorable discharge from the United States Armed Forces and has served during a conflict of war, United Nations called action, or homeland security event, and has received a DD214 or FL-B02 and service-connected disability rating from the federal government.

QUALIFYING EVENT. An injury that is directly related to active duty in the Unites States Armed Forces, including training accidents, combat injuries, and other duties of service that may cause harm. Off duty injuries shall not qualify.

REMODELING PROJECT. A remodeling project to a pre-existing residential structure that is the primary residence of the individual requesting the waiver.

RESIDENTIAL DWELLING UNIT. A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple-family dwellings, but not including hotels, motels, and boarding houses either owned or occupied by a qualified veteran.

(C) Waiver of permit fees. A qualified veteran that has a permanent or long-term disability as the result of a qualifying event may apply for and be granted a waiver of city building permit fees for a remodeling project to a residential dwelling unit that are necessary to allow for the general comfort and well being of the individual within his or her personal residence.

(D) Application and documentation.

(1) If the property is not owned by the applicant, a notarized statement from the fee owner(s) authorizing the modification must be included with the wavier application. The notarized statement shall include the address, parcel identification number, and legal description of the parcel.

(2) The waiver application shall be submitted within 48 months of discharge from active duty and shall state the purpose statement regarding the necessity of the remodeling project to a residential dwelling unit.

(3) An applicant must submit a written request 30 days before expiration of the building permit to extend the building permit fee waiver. The extension request shall state the reasons for not completing the building modifications or remodeling project within the required time period.

(4) Other documents as may be deemed necessary by the city's Building Official with respect to issuance of the building permit.

(E) Issuance of the waiver of a building permit fee. The city's Building Official shall issue the waiver upon receipt of a complete application provided that a determination has been made that the waiver complies with the applicable laws and provisions.

(Prior Code, § 4-1-9) (Ord. 483, passed 5-27-2008)

§ 150.07 POSTING OF ADDRESS NUMBERS.

(A) Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. If the building is so constructed that the numbering is not readily visible from the street, then the street numbering shall also appear at the street entrance to the building. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (102 mm) high with a minimum stroke width of one-half inch (12.7 mm).

(Prior Code, § 4-5-1)

(B) Distance and size requirements. The following shall apply to commercial, industrial, and institutional signage.

Distance Behind Curb
0 - 49 feet
50 - 74 feet
75 - 99 feet
100 - 199 feet
200 - 299 feet
300 + feet

(Prior Code, § 4-5-2)

(Ord. 475, passed 3-24-2008)

INTERNATIONAL PROPERTY MAINTENANCE CODE

§ 150.20 ADOPTION.

The International Property Maintenance Code, 2018 Edition, as published by the International Code Council, is adopted by reference in its entirety except as amended in this subchapter.

(Prior Code, § 4-4-1)

§ 150.21 APPLICATION.

The provisions of this subchapter shall apply to all existing residential and non-residential structures and all existing premises.

(Prior Code, § 4-4-2)

§ 150.22 AMENDMENTS.

The International Property Maintenance Code, 2018 Edition, is adopted with the following amendments.

Section 102.1 Title. Amended to read: These regulations shall be known as the Property Maintenance code of the City of Monticello, hereinafter referred to as “this code.”

Section 102.1 General. Amended to read: The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, or if there is a conflict between the requirements of this code and other ordinances of the city, the most restrictive shall govern.

Section 102.3 Application of other codes. Amended to read: Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Minnesota State Building Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the City of Monticello Code of Ordinances.

Section 202.7 Referenced codes and standards. Amended to read: The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the most restrictive shall apply.

Section 103.2 Appointment. Amended to read: The Chief Building Official shall serve as the “code official”.

Section 103.5 Fees. Amended to read: The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the City of Monticello Fee Schedule Ordinance.

Section 107.2 Form. Subpart 5. Deleted.

Section 107.2 Form. Subpart 6. Deleted.

Section 112.6.3 Limitations of authority. Amended by adding new section to read: The board of appeals shall have no authority to waive fire and life safety requirements or to approve a condition that would create a violation of the Minnesota State Building Code.

Section 201.3 Terms defined in other codes. Amended to read: Where terms are not defined in this code and are defined in the Minnesota State Building Code or elsewhere in the City of Monticello Ordinances, such terms shall have the meanings ascribed to them as stated in those codes.

Section 202 General definitions. Amended by adding: Junk Vehicle: A vehicle without a valid current license, or without a valid current registration (if applicable), or which is apparently inoperable located outside an enclosed building in a residential area including, but not limited to, automobiles, trucks, motorcycles, snowmobiles, trailers, all-terrain vehicles and watercraft.

Inoperative Motor Vehicle. Deleted.

Section 302.4 Weeds. Amended to read: All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight (8) inches in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with § 91.04 of the Monticello City Ordinances.

Section 302.8 Motor vehicles. Amended to read: except as provided in other regulations, no junk vehicle shall be parked, kept or stored on any premises unless within a totally enclosed structure. No vehicle shall at any time be in a state of major disassembly, disrepair or in the process of being stripped or dismantled. Spray painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception. Any vehicle is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes. Automotive maintenance and repair shall be limited to the owners/occupants who reside at that address.

Section 304.14 Insect screens. Amended to read: During the period from April 1 to October 31, every door, window and other outside opening in a commercial establishment required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every screen door used for insect control shall have a self-closing device in good working condition. Screens used for insect control must be maintained in good condition, securely held in place, and free from holes or tears.

Exception. Deleted.

Section 304.15.1 Landings. Amended by adding new section to read: Exterior doors, other than storm doors, must swing over a floor or landing of at least the width of the door opening, extending from the threshold for a distance of at least equal to the door width, and must not be more than eight inches below the height of the door threshold.

Section 305.7 Food preparation. Amended by adding new section to read: All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary

disposal of food wastes and refuse, including facilities for temporary storage.

Section 308.1 Infestation. Amended by adding: Once exterminated, all carcasses, offal material, fecal matter, etc. must be removed and all surfaces and materials shall be cleaned and sanitized at the direction of the code official.

Section 308.2 Owner. Amended by adding: The owner is also responsible for maintaining the exterior envelope of the structure by sealing or repairing all defects, cracks, gaps, holes and other openings in the foundation and/or other building materials that may allow pests to enter the structure.

Section 401.3 Alternative devices. Amended to read: in lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Minnesota State Building Code shall he permitted.

Section 404.4.1 Room area. Amended to read: Every bedroom occupied by one person shall contain at least 70 square feet of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each occupant thereof. Every living room shall comply with Table 404.5.

Section 404.5 Overcrowding. Amended to read: Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5. The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

Table 404.5
Minimum Area Requirements

Space

Minimum Area in Square Feet

1-2 Occupants

3-5 Occupants

6 or More Occupants

Space

Minimum Area in Square Feet

1-2 Occupants

3-5 Occupants

6 or More Occupants

Living room1,2

No requirements

120

150

Dining room1,2

No requirements

80

100

Kitchen2

50

50

60

Bedrooms

Shall comply with. Section 404.4.1

Notes:

1. See Section 404.5.2 for combined living room/dining room spaces.

2. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

Section 404.5.1 Sleeping area. Amended by adding new section to read: The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

Section 404.5.2 Combined spaces. Amended by adding new section to read: Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

Section 505.1 General. Amended by replacing “International Plumbing Code” with “Minnesota State Plumbing Code.”

Section 602.2 Residential occupancies. Amended to read: Dwellings shall be provided with heating facilities capable of maintaining a minimum room temperature of 68° F in all habitable rooms, bathrooms and toilet rooms when the outdoor temperature is -20° F or warmer. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Exception: Deleted.

Section 602.3 Heat supply. Amended to read: Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to May 31 to maintain a temperature of not less than 68° F in all habitable rooms, bathrooms, and toilet rooms.

Exceptions:

1. When the outdoor temperature is below -20° F, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

2. Deleted.

Section 602.4 Occupiable work spaces. Deleted.

Section 603.1.1 Appliance testing. Amended by adding new section to read: Central heating appliances shall be tested by a licensed mechanical contractor to verify that the appliance is in a safe working condition when evidence of malfunction, corrosion, deterioration or excessive interior carbon monoxide is suspected.

Section 603.2 Removal of combustion products. Amended to read: All fuel-burning equipment and appliances intended for heating shall be connected to an approved chimney or vent to the exterior of the structure.

Section 604.2 Service. Amended by replacing “ICC Electrical Code” with “Minnesota State Electrical Code.”

Section 702.1 General. Amended by replacing “International Fire Code” with “Minnesota State Fire Code.”

Section 702.2 Aisles. Amended by replacing “International Fire Code” with “Minnesota State Fire Code.”

Section 702.3 Locked doors. Amended by replacing “International Building Code” with “Minnesota State Building Code.”

Section 704.1 General. Amended to read: All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or

any combination thereof shall be installed and maintained in an operable condition at all times in accordance with the Minnesota State Building Code.

Section 704.2 Smoke alarms. Amended by replacing “International Fire Code” with “Minnesota State Fire Code.”

Chapter 8 ICC references. All references to the International Building, Fire, Fuel Gas, Mechanical, Plumbing, and Electrical Codes shall mean the applicable chapters of the Minnesota State Building Code. All references to the International Zoning Code shall mean the applicable chapters of the City of Monticello Zoning Code.

(Prior Code, § 4-4-3) (Ord. 464, passed 7-23-2007)

MOVING BUILDINGS

§ 150.35 MOVING BUILDINGS; REGULATIONS.

No building or structure shall be hereafter moved into or within the city except under the following conditions.

(A) Any persons desiring to move buildings or structures into the city shall apply for such permit to the Clerk and shall at the time of the application pay therefor a fee as adopted by the City Council.

(B) The structures shall not be of over ten years of age and must be constructed in compliance with all of the presently operating codes and ordinances of the city.

(C) If the proposed location of the construction or structure is on a lot in an existing subdivision, he or she must first obtain approval of the six nearest resident property owners.

(D) A building permit or permits as required as to any other construction in the city shall be required in addition to the permit to move the structure into the city.

(Prior Code, § 3-6-1) (Ord. 70, passed 7-9-1979; Ord. 107, passed 11-23-1981) Penalty, see § 150.99

§ 150.36 VARIANCES.

Any person seeking variance must follow the procedures set forth in the application for rezoning.

(Prior Code, § 3-6-2)

SWIMMING POOL REGULATIONS

§ 150.50 ADOPTION OF STATE REGULATIONS.

The state's Health Department regulations on design, construction, operation, and maintenance of public swimming and wading pools and the state's Health Department regulations on design and construction of private fixed pools ordinance, one copy of which is on file in the office of the City Administrator, is hereby adopted as the swimming pool ordinance of the city for the purpose of regulating the installation, alteration, maintenance, and repair of all swimming pools and for all buildings, providing for the issuance of permits and collection of fees thereof, providing penalties for violation of such ordinance. Every regulation, provision, penalty, condition, and term contained in this chapter is hereby adopted and made a part hereof as if fully set out in this chapter except as hereinafter modified.

(Prior Code, § 4-3-1)

§ 150.51 FEES.

For fee schedule, see building permit schedule in Chapter 36 of this code of ordinances.

(Prior Code, § 4-3-2)

§ 150.52 ENFORCEMENT.

The Building Official or other qualified and authorized representative of the City Council shall enforce the provisions of the ordinance.

(Prior Code, § 4-3-3)

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of §§ 150.01 through 150.07 is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Prior Code, § 4-1-6) (Ord. 358, passed 1-8-2001)

CHAPTER 151: UTILITY EXCAVATIONS

Section

151.01 Definitions

151.02 Utility excavation permit

151.03 Application for permit

151.04 Permit fee

151.05 Utility excavation placard

151.06 Surety bond

151.07 Exemption from surety bond

151.08 Public Works Director

151.09 Emergency action

151.10 Non-completion or abandonment

151.11 Insurance

151.12 Indemnification

151.13 Exemption from fee payment and insurance provisions

151.14 Refusal of permits

§ 151.01 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely discretionary.

APPLICANT. Any person making written application to the Public Works Director for an excavation permit hereunder.

EXCAVATION WORK. The excavation and other work permitted related to water distribution, wastewater collection, and stormwater collection and

distribution under a utility excavation permit and required to be performed under this chapter.

PERMITTEE. Any person or company who has been granted and has in full force and effect a utility excavation permit issued hereunder.

PUBLIC WORKS DIRECTOR. The Public Works Director of the city or his or her authorized representative.

STREET. Any street, highway, sidewalk, alley, avenue, or other public right-of-way or grounds or public easements in the city.

(Prior Code, § 8-2-1) (Ord. 549, passed 2-27-2012)

§ 151.02 UTILITY EXCAVATION PERMIT.

It shall be unlawful for any person to dig up, break, excavate, tunnel, drill, bore, undermine, or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street or to place, deposit, or leave upon any street any earth or excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained a utility excavation permit therefor from the Public Works Director as herein provided.

(Prior Code, § 8-2-2) (Ord. 549, passed 2-27-2012) Penalty, see § 10.99

§ 151.03 APPLICATION FOR PERMIT.

(A) No utility excavation permit shall be issued unless a written application for the issuance of a utility excavation permit on forms provided for that purpose is submitted to the Public Works Director. The written application shall state the name, address, and phone number of the applicant, the nature, location, and purpose of the excavation, and date of commencement and date of completion of the excavation, and other data as may reasonably be required by the Public Works Director.

(B) If required by the Public Works Director, the application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to the excavation and of the proposed excavated surfaces, the location of the excavation work, and the other information as may be prescribed by the Public Works Director.

(Prior Code, § 8-2-3) (Ord. 549, passed 2-27-2012)

§ 151.04 PERMIT FEE.

Upon approval of the application for the utility excavation permit by the Public Works Director, the applicant shall pay a fee set by the City Council to the city to cover reasonable costs for the issuance of the utility excavation permit.

(Prior Code, § 8-2-4) (Ord. 549, passed 2-27-2012)

§ 151.05 UTILITY EXCAVATION PLACARD.

The Public Works Director shall provide each permittee, at the time the permit is issued, a suitable placard which shall state the permittee's name, the permit number, and the date of expiration. It shall be the duty of any permittee hereunder to keep the placard posted in a conspicuous place at the site of the excavation work. It shall be unlawful for any person to exhibit the placard at or about any excavation not covered by the permit or to misrepresent the permit number of the date of expiration.

(Prior Code, § 8-2-5) (Ord. 549, passed 2-27-2012) Penalty, see § 10.99

§ 151.06 SURETY BOND.

Before a utility excavation permit is issued, the applicant shall deposit with the Clerk a surety bond in the amount of $2,000 in favor of the city or one-and-a-half times the estimated cost of any excavation(s) and restoration, whichever is greater:

(A) With good and sufficient surety by a surety company authorized to do business in the state;

(B) Satisfactory to the City Attorney in form and substance;

(C) Conditioned that the applicant will faithfully comply with all the terms and conditions of this chapter; all rules, regulations, and requirements pursuant thereto and as required by the Public Works Director; and all reasonable requirements of the Public Works Director; and

(D) (1) Conditioned that the applicant will secure and hold the city and its officers harmless against any and all claims, judgements, or other costs arising from the excavation permit or for which the city, the City Council, or any city officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee.

(2) Recovery on the surety bond for any injury or accident shall not exhaust the bond, but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given.

(3) In the event of any suit or claim against the city by reason of the negligence or default of the permittee, upon the city given written notice to the permittee of such suit or claim, any final judgment against the city requiring it to pay for such damage shall be conclusive upon the permittee and his or her surety.

(4) An annual bond may be given under this provision which shall remain in force for one year, conditioned as above, in the amount specified herein and in other respects as specified herein but applicable as to all excavation work in streets by the permitted during the term of one year from the date.

(Prior Code, § 8-2-6) (Ord. 549, passed 2-27-2012)

§ 151.07 EXEMPTION FROM SURETY BOND.

The surety bond provisions shall not apply to any excavation made under a contract awarded by the city or made by the city, or to any excavation performed directly by any public utility permitted to operate within the city limits, franchise or otherwise, for the purpose of supplying natural gas, electric, or telephone services. This exception only applies to excavation performed directly by the public utility, and a surety bond is required if work is performed by a subcontractor of any public utility.

(Prior Code, § 8-2-7)

§ 151.08 PUBLIC WORKS DIRECTOR.

(A) All work done pursuant to a utility excavation permit issued under the provisions of this chapter shall be performed under the direction and to the satisfaction of the Public Works Director or his or her duly authorized agent.

(B) The Public Works Director shall prepare the regulations with respect to excavations within any street and shall modify them with respect to particular work as the Public Works Director shall deem necessary or advisable to protect the public from injury, to prevent damage to public or private property, and to minimize interference with the public use of the streets.

(C) Regulations promulgated by the Public Works Director shall be approved by the City Council after notice of hearing and a copy of the regulations shall be given to each permittee upon issuance of the street excavation permit.

(D) Regulations promulgated by the Public Works Director may include:

(1) Requirement that all public utilities be notified by the permittee of permittee's intent to make a street excavation giving notice of time, place, and purpose of the excavation;

(2) Requirement that the permittee shall have the duty of determining the location and depth of all existing underground facilities;

(3) Manner and method of backfilling street excavation and procedure to be followed in compacting backfilled material;

(4) Specifications as to material to be used in backfilling street excavation;

(5) Manner and method of making street excavation, including procedures to safeguard and protect adjoining and adjacent property and existing underground and above ground facilities; and

(6) Requirements for restoration of street surfaces.

(E) Special provisions shall be made for simplifying procedures and supervision in respect to excavations by franchised utilities.

(Prior Code, § 8-2-8) (Ord. 549, passed 2-27-2012)

§ 151.09 EMERGENCY ACTION.

(A) In the event of any emergency in which a main, conduit, or utility facility in or under any street breaks, bursts, or otherwise is in such condition as to immediately endanger the property, life, health, or safety of any individual, the person owning or controlling the main, conduit, or utility facility without first applying for and obtaining a utility excavation permit hereunder shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health, and safety of individuals.

(B) However, the person owning or controlling the facility shall apply for a utility excavation permit not later than the end of the next succeeding day during which the Public Works Director's office is open for business and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.

(Prior Code, § 8-2-9) (Ord. 549, passed 2-27-2012)

§ 151.10 NON-COMPLETION OR ABANDONMENT.

Work shall progress in an expeditious manner until completion in order to avoid necessary inconvenience to the general public. In the event that the

work shall not be performed in accordance with the applicable regulations of the Public Works Director or in accordance with the provisions hereof, or shall cease or be abandoned without due cause, the city may, after six hours' notice in writing to the holder of the permit of intent to do so, correct the work or fill the excavation and repair the street, and in any such event the entire cost to the city of the work shall be a liability of and shall be paid by the person to whom the permit was issued and his or her surety.

(Prior Code, § 8-2-10)

§ 151.11 INSURANCE.

(A) Liability insurance. A permittee, prior to the commencement of excavation work hereunder, shall furnish the Public Works Director satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the utility excavation permit public liability insurance of not less than $1,000,000 for each occurrence and $1,000,000 for general aggregate, duly issued by an insurance company authorized to do business in the state and on which policy the city is named as co-insured (additional insured) and $500,000 minimum automobile liability insurance.

(B) Worker's compensation insurance. The contractor shall provide Worker's Compensation Insurance for all its employees and, in case any work is sublet, the contractor shall require the subcontractor to provide worker's compensation insurance in accordance with statutory requirements. Employer's liability limit shall be a minimum of $100,000.

(Prior Code, § 8-2-11) (Ord. 278, passed 5-13-1996; Ord. 549, passed 2-27-2012)

§ 151.12 INDEMNIFICATION.

The permittee shall indemnify, keep, and hold the city free and harmless from liability on account of injury or damage to persons or property arising or growing out of the permittee's negligence in making any street excavation. In the event that suit shall be brought against the city, either independently or jointly with the permittee on account thereof, the permittee, upon notice to it by the city, shall defend the city in any suit at the cost of the permittee; and in the event of a final judgment being obtained against the city, either independently or jointly with the permittee, the permittee shall pay the judgment with all costs and hold the city harmless therefrom.

(Prior Code, § 8-2-12)

§ 151.13 EXEMPTION FROM FEE PAYMENT AND INSURANCE PROVISIONS.

The provisions of this chapter requiring payment of a permit fee and evidence of public liability and property damage insurance shall not be applicable to any excavation work carried on by the city or its employees.

(Prior Code, § 8-2-13)

§ 151.14 REFUSAL OF PERMITS.

If any person shall fail, refuse, or neglect to comply with the provisions of this chapter or any rules or regulations of the Public Works Director in reference thereto, the Public Works Director may refuse to issue further permit to such person until the conditions or orders are complied with.

(Prior Code, § 8-2-14) (Ord. 108, passed 11-23-1981)

CHAPTER 152: SUBDIVISIONS

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GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

This chapter shall be known as the “Subdivision Ordinance of the City of Monticello”, and will be referred to herein as “this chapter”.

§ 152.002 PURPOSE.

(A) In order to safeguard the best interests of the city and to assist the subdivider in harmonizing his or her interests with those of the city at large, the following chapter is adopted in order that adherence to same will bring results beneficial to both parties.

(B) It is the purpose of this chapter to:

(1) Encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction;

(2) Provide for the health and safety and general welfare of residents by requiring the necessary services such as properly designed streets and adequate sewage and water service;

(3) Place the cost of improvements against those benefitting from their construction;

(4) Secure the rights of the public with respect to public lands and waters; and

(5) Make certain regulations and requirements for the platting of land within the city pursuant to the authority contained in Minnesota Statutes Annotated, including M.S. § 462.358 and M.S. Ch. 505, as they may be amended from time to time, which regulations the City Council deems necessary for the health, safety, and general welfare of this community.

§ 152.003 SCOPE.

The provisions of this chapter relate to any division of a tract of land into two or more parcels by platting, replatting, conveyance, registered land survey, or other means, and the combination or recombination of parcels that for which compliance with the zoning ordinance would be affected.

§ 152.004 CONDITIONS FOR RECORDING.

No plat or any subdivision shall be entitled to record in the County Register of Deeds office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this chapter.

§ 152.005 EFFECT OF PROVISIONS ON OTHER PERMITS AND AGREEMENTS.

(A) Generally. No building permits will be considered for issuance by the city for the construction of any building, structure, or improvement to the land or to any lot in a subdivision as defined herein until all requirements of this chapter have been fully complied with.

(B) Private agreements. This chapter is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements on an easement, covenant, or other private agreement, the requirements of this chapter shall govern.

§ 152.006 SEVERABILITY.

(A) If any court of competent jurisdiction invalidates any provision of this chapter, then such judgment shall not affect the validity and continued enforcement of any other provision of this chapter.

(B) If any court of competent jurisdiction invalidates the application of any provision of this chapter to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.

(C) If any court of competent jurisdiction rules invalid any condition attached to an approval under this chapter, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

(D) No judgment of any court of competent jurisdiction shall be considered final until all appeals therefore have been exhausted.

§ 152.007 EXCEPTIONS.

(A) When requesting a subdivision, combination, or recombination, if any of the following conditions exist, the subdivider is required to present accurately drawn site and certified survey plan information for the proposed subdivision, combination, or recombination, have the subdivision, combination, or recombination reviewed by the Planning Commission, reviewed and approved by the City Council, and adhere to the park dedication requirements of §§ 152.080 through 152.085.

(1) A division which results in commercial or industrial parcels having an area of five acres or more with frontage on a public right-of-way

measuring 300 feet or more and which does not result in the division of the parcel into two or more lots, any one of which is less than five acres in area or 300 feet in width and which does not necessitate the dedication of a public right-of- way. Such division shall not cause any structure on the lot to be in violation of the zoning ordinance or said new portions of lots to be in violation of city ordinance.

(2) Division of one previously platted parcel into no more than two buildable parcels, both of which will be in full conformance with all applicable zoning regulations, and for which no public right- of-way, easements, or other drainage concerns are evident to the Zoning Administrator.

(3) The adjustment of a lot line by the relocation of a common boundary and for which no public right-of-way, easements, or other drainage concerns are evident to the Zoning Administrator.

(4) Division of an existing lot of record where the division is to permit the adding of a parcel of land to an abutting lot or lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with this chapter or the zoning ordinance, and for which no public right-of-way, easements, or other drainage concerns are evident to the Zoning Administrator.

(5) Combination of two or more parcels of record to create a parcel conforming to the requirements of the applicable zoning district and for which no public right-of-way, easements, or other drainage concerns are evident to the Zoning Administrator.

(B) Any easements which become unnecessary as a result of the division or combination must be vacated. In addition, new easements must be established as determined by the City Engineer.

(C) In the event that the County Recorder shall refuse to record an administrative subdivision due to the legal description of the proposed parcels or for any other reason, the applicant shall be required to comply with all of the requirements of §§ 152.026 and 152.040 for preliminary plats.

§ 152.008 INTERPRETATION.

(A) In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where the provisions of this chapter impose greater restrictions than those of any other ordinance, code provision, or regulation, the provisions of this chapter shall be controlling.

(B) Where the provisions of any statute, other ordinance or code provision, or regulation impose greater restrictions than this chapter, the provisions of the statute, other ordinance or code provision, or regulation shall be controlling.

§ 152.009 RULES.

For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; and the word SHALL is mandatory and not discretionary.

§ 152.010 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLEY. A public right-of-way which affords a secondary means of access to abutting property

APPLICANT. The owner, the owner's agent, or any other person having legal control, ownership, and/or interest in the land proposed to be subdivided.

BLOCK. An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

BOULEVARD. The portion of a street right-of-way between the limit of the public right-of-way and the curbline, which may include pathways.

CERTIFICATE OF SURVEY. A document prepared by a registered land surveyor which precisely describes the area, dimensions, and location of a parcel or parcels of land.

CITY. The City of Monticello.

CITY COUNCIL. The governing body of the City of Monticello.

CITY ENGINEER. The engineer employed or retained by the city, unless otherwise stated.

COMPREHENSIVE PLAN. Refers to the group of maps, charts, and texts that make up the comprehensive long-range plan of the city.

COUNTY. Wright County, Minnesota.

CROSSWALK. A right-of-way owned by the city or other governmental entity which provides access for pedestrians across a street to adjacent streets or properties.

DESIGN STANDARDS. The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum, or maximum dimensions of such items as rights-of-way, blocks, easements, and lots.

DEVELOPMENT AGREEMENT. A written agreement between city and applicant in conjunction with the approval by the city of a subdivision.

EASEMENT. A grant by a property owner for the use of land for the purpose of constructing and maintaining drives, and utilities, including, but not limited to, sanitary sewers, water mains, electric lines, communication lines, storm sewer, or storm drainage ways and gas lines, wetlands, conservation easements, and pathways, including sidewalks and trails.

FINAL PLAT. A drawing or map of a subdivision meeting all of the requirements of the city and in such form as required by the county for the purposes of recording.

IMPROVEMENT. Any drainage or stormwater facility, roadway, parkway, sidewalk, trail, pathway or crossing, landscaping, lighting, off-street parking area, grading, utility, lot improvement, or other similar facility.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system, or any other sewage treatment device.

INSPECTOR. An authorized representative of the City Council assigned to make any or all necessary inspection of the work performed and materials furnished by a developer.

LOT. A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

LOT OF RECORD. Any lot which is a part of a subdivision the plat of which has been recorded in the County Recorder’s office, or a lot described by metes and bounds the deed to which has been recorded in the County Recorder’s office, at the time this chapter becomes effective.

METES AND BOUNDS DESCRIPTION. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of the section, lot, or real property by described lines or portions thereof.

OUTLOT. A lot remnant or parcel of land after platting which is intended as open space or other use and for which no building permit shall be issued.

OWNER. Includes the plural as well as the singular and where appropriate shall include a natural person, partnership, firm, association, syndicate, co-partnership, public or quasi-public corporation, private corporation, trust, or a combination of them having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

PARCEL. An individual lot or tract of land.

PARKS AND PLAYGROUNDS. Public land and open spaces in the city dedicated or reserved for recreation purposes.

PATHWAY. A public or private facility or area providing access for a variety of non-motorized uses, including, but not limited to, pedestrians and bicycles, which may be a paved or unpaved trail or sidewalk facility and its related appurtenant facilities.

PERCENTAGE OF GRADE. On street centerline, means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

PLANNING COMMISSION. The Planning Commission of the city.

PRELIMINARY PLAT. A detailed drawing or map of a proposed subdivision meeting requirements herein enumerated.

PRIVATE IMPROVEMENT. Any improvement for which the city does not assume ownership or the responsibility for maintenance operation, but which instead is owned, maintained, and operated by a private property owner or group of private property owners.

PROTECTIVE COVENANTS. Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

PUBLIC IMPROVEMENT. Any improvement for which the city may ultimately assume the ownership and responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

RIGHT-OF-WAY. Land acquired by reservation or dedication intended for public use and intended to be occupied or which is occupied by a street, pathway, railroad, utility lines, pipelines, water lines, sanitary sewer lines, storm sewer lines, or other similar uses.

SETBACK. The minimum horizontal distance between a building and a street, lot line, ordinary highwater mark, or bluff line. Distances are measured from the most outwardly extended portion of the structure at ground level.

SIDEWALK. A paved public or private pedestrian way located between the curbline and the adjacent property line, intended for the use of pedestrians.

STREET. The public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, lane, place, or boulevard, or otherwise designated.

(1) ARTERIAL STREET. A street carrying larger volumes of traffic and serving as a link between various sub-areas of the community. These streets are intended to provide a collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

(2) COLLECTOR STREET. A street which carries traffic from local streets to the major system of arterial streets and highways. COLLECTOR STREETS primarily provide principal access to residential neighborhoods, including a lesser degree, direct land access.

(3) CUL-DE-SAC STREET. A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

(4) LOCAL STREET. A street which is used primarily for access to abutting properties and for local traffic movement.

SUBDIVIDER. Any individual, firm, association, syndicate, co-partnership, corporation, trust, or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

SUBDIVISION. A described tract of land which is to be or has been divided into two or more lots or parcels, the purpose of transfer of ownership or building development of, if a new street is involved, any division of a parcel of land. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

TRAIL. A public or private right-of-way providing access for a variety of non-motorized uses including pedestrians and bicycles which may be a paved or unpaved trail and its related appurtenant facilities.

VARIANCE. A modification or variation of the provisions of this chapter as applicable to a specific piece of property. Modification of the allowable use within a district shall not qualify as a VARIANCE.

WATERCOURSE. A channel or depression through which water flows, such as rivers, streams, ditches, or creeks and may flow year-round or intermittently.

ZONING ADMINISTRATOR. The individual(s) assigned by the City Administrator or City Council charged with the responsibility of administering and enforcing this chapter.

ZONING ORDINANCE. The zoning ordinance or resolution controlling the use of land as adopted by the city.

§ 152.011 AMENDMENT.

(A) Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued. Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical. The City Clerk may forward the application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(B) The City Council may hold a public hearing on the amendment if deemed necessary by the City Clerk. After consideration of the Planning Commission recommendation and hearing, the Council may adopt the amendment or any part thereof in such form as it deems advisable.

(C) Approval of an amendment shall require a majority vote of all members of the City Council.

§ 152.012 VARIANCES.

Variances to this chapter shall be processed and reviewed per the city’s zoning ordinance, Chapter 2, § 4(C).

PROCEDURE

§ 152.025 PRE-APPLICATION.

Prior to the preparation of a preliminary plat, the applicant or owners may meet with the Zoning Administrator, and other appropriate officials in order to be made fully aware of all applicable ordinances, regulations, and plans in the area to be subdivided. At this time, or at subsequent informal meetings, the applicant may submit for informal, non-binding comment a general concept plan of the proposed subdivision. The concept plan can be presented in simple form but should show that consideration has been given to the relationship of the proposed subdivision to existing city facilities, to

neighboring subdivisions and developments, to the topography of the site, and to the suitability of proposed transportation, drainage, and utility systems.

§ 152.026 PROCEDURE FOR PRELIMINARY PLAT.

(A) Filing.

(1) Per the published application calendar, the applicant shall file a request for preliminary plat approval and the accompanying fee and escrow as adopted by ordinance. After the city has received the request for a plat approval, it shall inform the applicant within ten days whether the submittal was complete. If deemed not complete, the applicant will be informed of needed material or information to be made complete. If no notification of completion is made by the city within 15 days, the request will be placed on a regular Planning Commission agenda for consideration.

(2) The application shall be accompanied by a fee and escrow as provided for by City Council ordinance.

(3) The application shall also be accompanied by electronic and print copies of a preliminary plat and supportive information in conformity with requirements of this chapter and application checklists. The preliminary plat shall be considered as being officially submitted only when all of the information requirements of this chapter are complied with, the appropriate fees paid, and escrows deposited.

(4) Where appropriate, the city staff will meet with the applicant to discuss the request and related information. Upon receipt of all the required information, the Zoning Administrator may forward the application and required information to the appropriate city staff consultants and city commissions for review and technical reports.

(5) The applicant shall supply proof of title in a form approved by the City Attorney and the legal description of the property for which the subdivision is requested and, as applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested subdivision.

(B) Hearing.

(1) When an application is determined to be complete, the Zoning Administrator shall schedule a public hearing for public review of the preliminary plat. The hearing shall be held after adequate time has been allowed for staff and advisory body review of the plat.

(2) The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council. Notice of the

hearing shall consist of a legal property description and a description of the request and shall be published in the official newspaper at least ten days prior to the hearing. Written notification of the hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question. Failure of a property owner to receive the notice shall not invalidate any such proceedings a set forth within this chapter, provided a bona fide attempt has been made to comply with the notice requirements of this chapter.

(3) Timeline for review of the preliminary plat shall be in accordance with M.S. § 462.356, as it may be amended from time to time.

(C) Technical assistance reports. The Zoning Administrator shall instruct the appropriate staff to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.

(D) Review by other commissions or jurisdictions.

(1) The Zoning Administrator shall refer copies of the preliminary plat to the Parks and Recreation Commission and/or county, state, or other public jurisdictions for its review and comments, where appropriate and when required as determined by the Zoning Administrator.

(2) In cases where a proposed subdivision is adjacent to a county or state highway, the subdivision shall be subject to county and/or state approval.

(E) Planning Commission action. The applicant or a designated representative thereof shall appear before the Planning Commission at the public hearing in order to answer questions concerning the proposed request. The Planning Commission shall make a recommendation to the City Council following the close of the public hearing. If the Planning Commission has not acted upon the preliminary plat, and the statutory review period will expire before the next regularly scheduled Planning Commission meeting, the Council may act on the preliminary plat without the Planning Commission’s recommendation.

(F) City Council action.

(1) Upon completion of the report and recommendation of the Planning Commission, the request shall be placed on the agenda of the City Council. The report and recommendations shall be entered in and made part of the permanent written record of the Council meeting.

(2) Upon receiving the report and recommendation of the Planning Commission and city staff, the City Council shall have the option to set and hold a public hearing if deemed necessary or take action based on Planning Commission recommendation. The Council shall make recorded findings of

fact and may impose any condition it considers necessary to protect the public health, safety, and welfare. The Council shall adopt a resolution approving or denying the request.

(3) The City Council shall approve or disapprove the preliminary plat within 120 days following delivery of an application completed in compliance with this chapter, unless the time for Council decision has been extended pursuant to a written agreement with the applicant.

(4) The City Council may deny or require modifications to a proposed preliminary plat when said plat fails to comply with any of the requirements of this chapter, or other applicable regulations, including the zoning ordinance. In addition, the Council may deny or require modifications to a proposed preliminary plat when the Council finds that despite technical compliance with applicable ordinances, the plat design results in a likelihood of extraordinary public costs for future maintenance or the potential for public safety hazards that are not typical for subdivisions in the city.

(5) The City Council reserves the right to deny or require modifications to a preliminary plat if due regard is not shown for the preservation of all natural features, such as topography, trees, watercourses, scenic points, prehistoric and historical spots, and similar community assets, which, if preserved, will add attractiveness and stability to the proposed development of the property.

(6) If the preliminary plat is denied by the City Council, the reasons for such action shall be recorded in the proceedings of the Council. If the preliminary plat is approved, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the final plat. The Council may require such revisions in the preliminary plat and final plat as it deems necessary for the health, safety, general welfare, and convenience of the city.

(7) Approval of a preliminary plat shall be null and void unless within 360 days after receiving the last required approval of the preliminary plat there shall be submitted to the Zoning Administrator a final plat or plats for all or a portion of the approved preliminary plat in accordance with the conditions upon which approval was granted by the City Council. An extension from this requirement may be granted by the Council upon the reception of a request for extension. An extension shall be requested in writing and filed with the city at least 14 days before the voidance of the approved preliminary plat. There shall be no charge for the filing of such request. The request for extension shall state facts showing a good faith attempt was made to meet the final plat submission requirement. Such request shall be presented to the Council for a decision.

(8) In the event of changes to city, county, state, and federal development regulations, the city may require a preliminary plat to be amended to incorporate applicable changes, except as may be prohibited by Minnesota Statutes.

(9) Should the applicant desire to amend a preliminary plat as approved, an amended preliminary plat may be submitted. The city may require the applicant to follow the same procedure as a new preliminary plat. No public hearing will be required for the amendment if the opinion of the city is that the scope of the changes does not constitute a new preliminary plat. A filing fee, as established by the city, shall be charged for amendment processing.

(10) Approval of the preliminary plat shall not be considered binding in regard to subsequent final plat contemplation.

§ 152.027 PROCEDURE FOR FINAL PLAT.

(A) Filing.

(1) After the preliminary plat has been approved, the final plat shall be submitted for review as set forth in the divisions which follow. The city may agree to review the preliminary and final plat simultaneously. The final plat shall incorporate all changes, modifications, and revisions required by the city. Otherwise, it shall strictly conform to the approved preliminary plat.

(2) The application for final plat shall be accompanied by electronic and print copies of a preliminary plat and supportive information in conformity with requirements of this chapter and application checklists.

(B) Approval of the City Council.

(1) The final plat shall be submitted to the Zoning Administrator for distribution to the City Council and appropriate city staff. The city staff shall examine the final plat and prepare a recommendation to the Council. The Council shall certify final approval within 60 days if the applicant has complied with all conditions and requirements of applicable regulations and conditions and requirements of the preliminary plat approval.

(2) If approved, the final plat and development agreement shall be approved by resolution, which resolution shall provide for the acceptance of all agreements for basic improvements, public dedication, and other requirements as indicated by the City Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the person or persons applying for such approval.

(C) Development agreement. Before a final plat is approved by the City Council and prior to recording or registering a final plat, the owner or

subdivider of the land covered by the plat shall execute and submit to the Council an agreement, which shall be binding on his, her, or their heirs, personal representatives, and assigns, which embodies the terms and conditions of the approval given by the Council, including, but not limited to, requirements set forth in this chapter and which controls the installation of all required improvements. The agreement will require all improvements in compliance with approved engineering standards and applicable regulations. Said development agreement shall provide for the supervision and inspection of the construction by the City Engineer and shall provide for the fees and securities in connection to the improvements.

(D) Existing special assessments. When any existing special assessments which have been levied against the property described are to be divided and allocated to the respective lots in the proposed plat, city staff shall:

(1) Estimate the clerical cost of preparing a revised assessment role;

(2) File the same with the County Auditor; and

(3) Make such division and allocation.

(E) Recording final plat.

(1) If the final plat and development agreement are approved by the City Council, the applicant shall record them with the County Recorder within 365 days after the approval or approval of the final plat shall be considered void, unless a request for a time extension is submitted in writing and approved by the Council. The applicant shall, immediately upon recording, furnish the Zoning Administrator with a print and reproducible tracing of the final plat showing evidence of the recording.

(2) A final plat will not be released by the city for recording purposes until the applicant has satisfied applicable ministerial requirements of this chapter, including payment of fees, execution of a developer’s agreement, deposit of surety, letters of credit, Mylar copies of the final plat, easement and deed documents, and all other requirements of approval by resolution.

(3) No building permits shall be let for construction of any structure on any lot in the plat until the construction plans have been approved by the city, the city has received evidence of the plat and development agreement being recorded by the county and the provisions of the subdivision’s development agreement have been satisfactorily met.

(F) Recording of multiple-phased plats. If a preliminary plat is final platted in stages, unless otherwise provided for in the development contract, all stages must be final platted into lots and blocks (not outlots) within three years after the preliminary plat has been approved by the City Council. If the final plats are not approved and recorded in accordance with this time frame, the preliminary plat approval shall be considered void,

unless a request for time extension is submitted in writing and approved by the Council prior to the expiration of the three-year period.

(G) Extension. Within 30 days of the deadline of recording of the final plat, the applicant may file with the Zoning Administrator a written request that said deadline be extended six months beyond the date the extension is granted. The Zoning Administrator shall place the request on the agenda of a regularly scheduled City Council meeting to be held within 30 days of the extension filing if in their opinion no change has occurred in any land use restriction or the Comprehensive Plan, or any other official control affecting the use, development density, lot size, lot layout, or dedication or platting required or permitted by the preliminary plat.

(Ord. 772, passed 3-14-2022)

DATA REQUIRED FOR PRELIMINARY AND FINAL PLATS

§ 152.040 PRELIMINARY PLAT.

The owner or subdivider shall prepare and submit a preliminary plat together with any necessary supplementary information.

(A) Contents. The preliminary plat shall contain the following information:

(1) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions;

(2) Location of boundary lines in relation to a known section, quarter section, or quarter- quarter section lines comprising a legal description of the property;

(3) Names and addresses of the record fee owner;

(4) Scale of plat not less than one inch to 100 feet;

(5) Date and north point;

(6) Project narrative; and

(7) Certificate of survey signed by a registered land surveyor and current within six months of plat application to include legal description, all public utilities including pipe size, material type, depths, location, and detail of private utilities or easements, any other easements of record.

(B) Existing conditions plan.

(1) Boundary line of proposed subdivision clearly indicated and to a close degree of accuracy;

(2) Existing zoning classifications for land within and abutting the subdivision;

(3) Location right-of -way width, and names of existing or planned streets, or other public ways, parks, and other public lands, permanent buildings and structures, easements, school districts, section and corporate lines within the plan and to a distance 350 feet beyond shall also be indicated;

(4) Boundary lines of adjoining unsubdivided or subdivided land, within 350 feet, identified by name and ownership, including all contiguous land owned or controlled by subdivider;

(5) Topographic data, including contours at vertical intervals of not more than two feet and all surface features and structures. Watercourses, marshes, rock outcrops, delineated wetlands, power transmission poles and lines, size, location, and elevation of all appurtenances of existing public utilities and all quasi-public utilities, including the name and operating authority of each utility, and other significant features shall be shown. U.S.G.S. data shall be used for all topographic mapping where feasible. (1929 sea level data shall be used for all topographic mapping.) The flood elevation of all lakes, river, and wetlands shall also be shown;

(6) An accurate soil survey of the subdivision prepared by a qualified person;

(7) Location and size of existing sewers, water mains, culverts, storm sewer, or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations and locations of catch basins, manholes, and hydrants shall be shown only on request;

(8) A survey prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing. Deciduous trees that are less than six inches in diameter at a point five feet above natural grade, or trees that are diseased or invasive as defined by the Department of Natural Resources may be exempted from this survey; and

(9) Wetland data report shall be required and must consist of a wetland delineation report which identifies all wetlands, ponds, lakes, waterways, floodplains, and shorelines, and a wetland functional assessment summary. The wetland data report must be submitted with the preliminary plat.

(C) Proposed design features.

(1) A proposed grading plan showing the present and existing contours at two-foot contour interval, together with off-site existing contours depicting drainage patterns entering the proposed site, within 200 feet or more of the proposed subdivision is required unless waived by the City Engineer. If determined to be necessary by the City Engineer, one-foot contours may be required for proposed grading plans in order to ensure property drainage. High and low point elevations and emergency overflow elevations and routes shall be provided. The proposed grading plan shall demonstrate a design for the subdivision that respects the natural topography, and preserves existing trees, wetlands, and other natural features;

(2) Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross-sections, and proposed names of streets. The name of any street heretofore used in the county or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used. Street names conform to the master street name and numbering system as adopted;

(3) Locations and widths of proposed streets and pathways;

(4) Layout, numbers, and preliminary dimensions of lots and blocks and dimensions of street frontage;

(5) Tabulation of the acreage of the full subdivision;

(6) Tabulation statement of the approximate square footage and dimensions of the individual lots;

(7) Minimum front and side street building setback lines. When lots are located on a curve, the width of the lot is measured at the building setback line;

(8) For each lot, specify building type, finished floor elevations, and lowest opening elevations.

(9) Areas, other than streets, alleys, pathways, and utility easements intended to be dedicated or reserved for public use, including the size of the area or areas in acres;

(10) Proposed location and routing of proposed sewer lines and identification of gravity mains or forcemains;

(11) Proposed location and routing of proposed water mains;

(12) A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees, and other vegetation that are to be planted;

(13) A stormwater management plan and erosion and sediment control plan in accordance with the requirements of the city's Design Manual and per zoning ordinance Chapter 4.10; and

(14) Open space and landscaping plan.

(D) Other information.

(1) The applicant shall supply proof of title in a form approved by the City Attorney and the legal description of the property for which the subdivision is requested and, as applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested subdivision;

(2) Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population;

(3) If any zoning changes are contemplated, the proposed zoning plan for the areas;

(4) (a) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission shall require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision; and

(b) In any event, all subdivisions shall be shown to relate well with existing or potential adjacent subdivision.

(5) Where structures are to be placed on large lots (over 30,000 square feet), the preliminary plat shall indicate placement of structures so that lots may be further subdivided;

(6) Where potential subdivision and use of excessively deep (over 300 feet) lots exist, the preliminary plat shall indicate placement of structures so that lots may be further subdivided;

(7) A copy of all proposed private restrictions and covenants; and

(8) Other information as may be requested by the engineer, surveyor, or Planning Commission.

§ 152.041 FINAL PLAT.

The owner or subdivider shall submit a final plat together with any necessary supplementary information.

(A) Contents. The final plat prepared for recording purposes shall be prepared in accordance with provisions of state statutes and county regulations, and the final plat shall contain the following information:

(1) Names of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision;

(2) Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions which must be mathematically close;

(3) The location of monuments shall be shown and described on the final plat. Locations of the monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles, and distances to the reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency of street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half inch or larger in diameter extending at least two feet below the finished grade due to the difficulty faced with frozen ground in the winter. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact locations of all markers shall be shown on the final plat together with accurate interior angles, bearings, and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter;

(4) Location of lots, streets, public highways, alleys, parks, and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines;

(5) Lots shall be numbered clearly. Blocks are to be numbered, with numbers shown clearly in the center of the block;

(6) The exact locations, widths, and names of all streets to be dedicated;

(7) Location and width and intended use of all easements to be dedicated;

(8) Name of fee owner and surveyor preparing the plat;

(9) Scale of plat (the scale to be shown graphically and in feet per inch), date, and north point;

(10) Statement dedicating all streets, alleys, and other public areas, utility and drainage easements not previously dedicated as follows: streets alleys, and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated; and

(11) An accompanying letter from the County Surveyor's office stating that the plat or land survey has been examined and approved.

(B) Certifications required.

(1) Notarized certification by owner and by any mortgage bolder of record of the adoption of the plat and the dedication of streets and other public areas;

(2) Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him or her and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct;

(3) Certification showing that all taxes and special assessments due on the property have been paid in full if requested by the City Council or County Commissioners; and

(4) Space for certificates of approval and review to be filled in by the signatures of the Chairperson of the City Planning Commission and the Mayor and City Clerk.

(a) The form of certificate by the Planning Commission is as follows:

Reviewed by the Planning Commission of the City of Monticello this ____ day of _____, 20

Signed: _____

Chairperson

Attest: _____

Secretary

(b) The form of approval of the City Council is as follows:

Approved by the City of Monticello, Minnesota this ____ day of _____, 20___.

Signed: _____

Mayor

Attest: _____

City Clerk

(C) Recording required. A letter from the County Recorder's office stating the final plat has been recorded as approved by the City Council shall be received by the Building Official's office before any building permits may be issued.

SUBDIVISION DESIGN STANDARDS

§ 152.055 CONFORMITY WITH OTHER STANDARDS.

A proposed subdivision shall conform to the Comprehensive Plan, to related policies adopted by the city, and to all other chapters of the official code and zoning ordinance of the city. All subdivisions shall be designed to the city's current Design Manual and current city specifications.

§ 152.056 INTERPRETATION OF REQUIREMENTS.

The design features set forth in this section are minimum requirements. The city may impose additional or more stringent requirements concerning lot size, streets, and overall design as deemed appropriate considering the property being subdivided.

§ 152.057 LAND REQUIREMENTS.

(A) Land shall be suited to the purpose for which it is to be subdivided. No plan shall be approved if the site is not suitable for the purposes proposed by reason of potential flooding, topography, or adverse soil, rock formation, or wetlands.

(B) Land subject to hazards to life, health, or property shall not be subdivided until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan.

(C) Proposed subdivisions shall be coordinated with surrounding jurisdictions and/or neighborhoods so that the city as a whole may develop efficiently and harmoniously.

§ 152.058 BLOCKS.

(A) Block length. In general, intersecting streets determining block lengths shall be provided at such intervals so as to serve cross-traffic

adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed 1,320 feet, nor be less than 500 feet in length, except where topography or other conditions justify a departure from this standard. In blocks longer than 800 feet, pathways and/or easements through the block may be required near the center of the block.

(B) Block width. The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

§ 152.059 LOTS.

(A) Area/width. The minimum lot area and width shall not be less than that established by the city zoning ordinance in effect at the time of adoption of the subdivision.

(B) Corner lots. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the zoning ordinance.

(C) Side lot lines. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

(D) Building sites. Unless approved by the City Engineer upon the basis of plans submitted showing alternative acceptable surface drainage measures, each lot shall provide an adequate building finished floor elevation at least 12 inches above the top of the adjacent curb.

(E) Frontage. Every lot must have the minimum frontage on a city-approved right-of-way other than an alley, as required in the city zoning ordinance.

(F) Access. Each individual lot shall directly access a public street.

(G) Setback lines. Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the city zoning ordinance, as may be amended.

(H) Watercourses. Watercourses shall be contained within abutting lots. Watercourses shall be protected by easement to the anticipated high water level (as determined by the city). Lots with easements protecting watercourses shall have sufficient dimensions and area above the normal water mark.

(I) Drainage. Lots shall be graded so as to provide drainage away from building locations, subject to the approval of the City Engineer. A grading plan shall be submitted showing all lot grading and drainage provisions.

(J) Features. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, topography, historic spots, or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

(K) Lot remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots or outlot, rather than be allowed to remain as unusable parcels.

(L) Political boundaries. No subdivision shall extend over a political boundary or school district line without document notification to affected units of government.

(M) Frontage on two streets. Double frontage, or lots with frontage on two parallel streets, shall not be permitted except where lots back on major collector streets or county or state highways, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen plantings and/or buffering along the back lot line. As part of the subdivision review process, the submission of a buffering and screening plan may be required.

(N) Access to major collector streets.

(1) In the case where a proposed subdivision is adjacent to a major collector street, said streets to be defined by the city’s Comprehensive Plan, there shall be no direct vehicular access from individual lots to such streets and roads. In the subdividing of small tracts of land fronting on limited access highways or major collector streets where there is no other alternative, a temporary access may be granted, subject to terms and conditions defined by the City Council and applicable county or state agencies.

(2) As neighboring land becomes subdivided and more preferable access arrangements become possible, temporary access permits shall become void.

(3) In cases where direct lot access to collector or arterial streets is allowed, special traffic safety measures including, but not limited to, provisions for on-site vehicle turnaround shall be required.

(4) In cases where a proposed subdivision is adjacent to a county or state highway, the subdivision shall be subject to county and/or state approval.

(O) Outlots. Lot remnants and future subdivision development phases shall be platted as outlots. Typically, stormwater ponds shall be contained within outlots. In cases where outlots are created or exist, their area shall not be utilized in calculating minimums for buildable lot area requirements. Outlots are also prohibited from qualifying for building permits.

§ 152.060 STREETS AND ALLEYS.

All streets shall be dedicated for public use except by approval through planned unit development.

(A) Contiguous streets. Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of arterials and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of stormwater, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served and in compliance with the Comprehensive Plan.

(B) Local streets and dead-end streets. Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall not be longer than 600 feet, including a terminal turnaround which shall be provided at the closed end, with a right-of-way radius of not less than 60 feet. A 45-foot street surface radius will be required on all cul-de-sacs.

(C) Street plans for future subdivisions. Where the subdivision to be submitted includes only part of the tract owned or intended for development by the applicant, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the applicant. When determined necessary by the city, the plan shall extend streets and utilities to the property line of the adjacent tract and/or tracts.

(D) Temporary cul-de-sacs. In those instances where a street is terminated pending future extension in conjunction with future subdivision, a temporary turnaround facility shall be provided at the closed end, in conformance with cul-de-sac requirements.

(E) Subdivisions abutting major rights-of-way. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or state highway or county thoroughfare, provision may be made for a marginal access street approximately parallel and adjacent to the boundary of the right-of-way; provided, that due consideration is given to proper circulation design, or for a street at a distance suitable for the appropriate use of land

between the street and right-of-way. The distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.

(F) Pathways.

(1) Pathways shall be established in accordance with the city's Comprehensive Plan for Parks, Pathways, and Open Space, the city's Proposed Pathway Connections Guide, and in other areas where trails will serve an important transportation or recreational purpose as recommended and approved by the City Council.

(2) Trail corridors shall meet the following minimum requirements unless otherwise permitted by the City Council:

(a) Dedicated to the city as an easement for public trail purposes;

(b) Minimum 30-foot wide corridor;

(c) Minimum ten-foot wide surface;

(d) Compliant with the Americans with Disabilities Act (ADA);

(e) No above-ground utilities (i.e., lift stations, utility boxes) may be within the trail corridor;

(f) A landscape plan, including shrubs and trees, shall be required on trail corridors located in the side yard of residential lots. These landscape plantings shall be in addition to those required by other sections of this code;

(g) Due regard shall be shown for trees, wetlands, and other environmental features when locating and constructing trails; and

(h) Compliance with city, county, and state transportation plans.

(G) Compliance with city, county, and state transportation plans.

(1) All subdivisions adjacent to or incorporating planned streets which are identified in the city, county, and state transportation plans, as amended, or existing streets shall comply with the minimum right-of-way, surfaced width and design standards as outlined in the plans or as recommended by the City Engineer.

(2) Infrastructure planning for safe routes to school shall be incorporated into subdivision and pathway design in accordance with the city's Comprehensive Plan for Parks, Pathways, and Open Space, and the city's Proposed Pathway Connections Guide.

(H) Street design.

(1) The classification of street and determined right-of-way width shall be determined by the city’s Comprehensive Plan.

(2) Minimum right-of-way widths, paving widths, angles of intersection, curb radii, distances along sides of sight triangles, horizontal alignments, vertical alignments, as well as maximum grades shall be in accordance with the following table:

Street Design

Design Element

Minor Arterial

Major Collector

Minor Collector

Local Streets

Cul-de- Sacs

Pathway

Private Common Access**

Street Design

Design Element

Minor Arterial

Major Collector

Minor Collector

Local Streets

Cul-de- Sacs

Pathway

Private Common Access**

Right-of-way width*

150 ft.

130 ft.

80 - 100 ft.

60 ft.

60 ft.

30 ft.

30 ft.

Paving width**

52 ft.

52 ft.

44 ft.

32 ft.

32 ft./45 ft. R

10 ft.

20 ft.

Maximum grade

7.5%

7.5%

7.5%

8%

8%

8%

8%

Minimum grade

0.50%

0.5%

0.5%

0.5%

0.5%

0.5%

0.5%

Cross grade

2 - 3% crown

2% max

2 - 3% crown

Design section

10 ton

9 ton

9 ton

9 ton

9 ton

N/A

9 ton

Minimum angle intersection

90

90

80

70

70

N/A

70

Minimum curb radius

65 ft.

50 ft.

35 ft.

20 ft.

15 ft.

-

20 ft.

Grades for 25 feet before intersection

2.00%

2.00%

2.00%

2.00%

2.00%

2.00%

2.00%

Site triangles (distance along sides of) through street/stop street

690/30 ft.

490/30 ft.

490/30 ft.

250/30 ft.

250/30 ft.

N/A

250/30 ft.

Horizontal align (min. radius of centerline)

700 ft.

500 ft.

300 ft.

200 ft.

75 ft.

N/A

100 ft.

Vertical curves (min. sight distance)

650 ft.

475 ft.

325 ft.

250 ft.

100 ft.

N/A

300 ft.

Pathway

Required on both sides

Required on both sides

Required on both sides

Sidewalk required on single side

See above design notations

NOTE: Alternate right-of-way width requirements may be allowed for specific thoroughfares based on anticipated traffic volume, planned function of street, jurisdiction of street, topography, and character of abutting land use. Increased width will be set by the City Council upon recommendation of the Planning Commission and City Engineer.

Street design requirements may be altered based on existing topographic conditions as approved by the City Council upon recommendation of the Planning Commission and City Engineer.

Based on future roadway functional classification

*As measured from face of curb to face of curb.

**The City Council may choose to approve private common access for PUD, townhouse development, and the like, where appropriate. Standards for said access, however, shall comply with minimums as outlined for minor streets (except ROW) and all other provisions as required by the Council.

(I) Streets in flood hazard area. No street shall be approved if its final surface is at a lower elevation than two feet below the regulatory flood protection elevation. The City Council may require profiles and elevations of finished streets for areas subject to flooding. Fill may be used for streets, provided such fill does not unduly increase flood heights and provided any such fill would not result in a stage increase violating the requirements of applicable Minnesota Statutes, and any applicable requirements imposed by the Federal Emergency Management Agency pursuant to its rules and regulations. Drainage openings shall not restrict the flow of water so as to unduly increase flood heights, and provided any such drainage opening would not violate the requirements of applicable Minnesota Statutes, as such chapters may be amended, supplemented, or replaced from time to time, and any applicable requirements imposed by the Federal Emergency Management Agency pursuant to its rules and regulations.

(J) Reverse curves. Minimum design standards for minor arterial and major collector streets shall comply with Minnesota Department of Transportation State Aid Standards.

(K) Reserve strips. Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the City Council.

(L) Private streets. Private streets and reserve strips, except in the case of planned unit developments, shall be prohibited and no public improvements shall be approved for any private street. If any person applies to subdivide or replat any land or parcels adjoining an existing private street, they shall be required to dedicate the private street for public use and schedule for improvement to public street standards at the time of final plat.

(M) Street intersections. Intersections having more than four corners shall be prohibited. Adequate land for future intersections and interchange construction needs shall be dedicated. Angles formed by the intersection of two streets shall comply with the provisions of division (H) above.

(N) Street intersection offsets. Street jogs in local streets shall have a centerline offset of not less than 150 feet. Street jogs in arterial and collector streets shall have a centerline offset of not less than 300 feet.

(O) Centerline curvature. The minimum horizontal curvature of streets shall be in accordance with the MNDOT Highway Design Manual for the type of street and design speed.

(P) Half streets. Half streets shall be prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. The probable length of time elapsing before dedication of the remainder shall be considered in this decision. No permanent street improvement shall be permitted within a half street right-of-way. All lots having frontage or access solely from a half street are prohibited from being eligible for building permits.

(Q) Dedication. All proposed streets shown on the subdivision shall be in conformity to city, county, and state plans and standards and be offered for dedication as public streets unless otherwise determined by the City Council.

(R) Curbs and gutters. Concrete curbs and gutters shall be required on all streets, unless otherwise directed by the City Council at the time the subdivision is approved.

(S) Pavement. Pavement shall be installed in accordance with the City Design Manual.

(T) Sidewalk. Sidewalks shall be provided on one side of all roadways and shall be installed in accordance with standards and specifications approved by the City Council.

(U) Private utilities. In all subdivisions, all telephone, electric, and gas lines shall be placed underground within dedicated public ways or recorded easements in such a manner as to not conflict with other underground services. All underground installation of service lines within street rights-of-way shall be completed in a manner that will not disturb street surfacing.

§ 152.061 EASEMENTS.

(A) Municipal utility improvements lying within public easements. Municipal utility improvements lying within public easements shall become city property without further notice or action, with exception of approved private streets and private storm sewer systems.

(B) Disturbance of surface of easement area. If the surface of the easement area of any portion thereof shall be disturbed by the operation, maintenance, replacement, or removal activities in connection with the use of the easement, said surface and improvements shall be promptly restored by the fee owner of the easement area to their condition prior to the disturbance.

(C) Width and location. An easement for drainage and utilities at least six feet wide shall be provided along each side line of each lot and an easement of 12 feet wide shall be provided along the front, side and rear line of each lot line located along the perimeter of the plat.

(D) Continuous utility easement locations. Drainage and utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.

(E) Guy wires. Additional easements for pole guys should be provided, where appropriate, at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys fall alongside lot lines.

(F) Stormwater management ponds. New stormwater management ponds that are constructed as part of subdivisions shall be covered by drainage and utility easements or outlots that are dedicated to the city. At least one side of a pond should be located adjacent to public right-of-way or an approved maintenance access route and adequate easement dedicated to provide access for future maintenance.

(Ord. 772, passed 3-14-2022)

§ 152.062 EROSION AND SEDIMENT CONTROL DRAINAGE.

(A) Erosion and sediment control standards shall comply with the city's engineering design guidelines ("Design Manual") as well as Chapter 4 of the city's zoning ordinance.

(B) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(C) Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(D) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(E) When soil is exposed, the exposure shall be for the shortest feasible period of time.

(F) In the event that permanent stabilization cannot be feasibly obtained within 14 days after construction activity in that portion of the site has temporarily or permanently ceased, and seven days if discharge points are located within one mile of an impaired or special water body, temporary soil stabilization BMPs must be implemented within the time frame.

(G) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.

§ 152.063 DRAINAGE.

Drainage facilities shall be in accordance with the City Design Manual and approved by the City Engineer.

§ 152.064 STEEP SLOPES.

Subdivision design shall be consistent with limitations presented by steep slopes. Subdivisions shall be designed so that no construction or grading will be conducted on slopes steeper than 3:1 in grade, unless otherwise approved by the City Engineer based on exiting topographic conditions.

§ 152.065 WETLAND SYSTEMS.

(A) Where the subdivision of a lot or tract of land contains drainageways, watercourses floodable areas, or wetlands, and thus may be unsuitable for development, the areas shall be handled as follows.

(1) If the land is designated in whole or in part for public use on an adopted plan of the city, the developer shall dedicate the land to the city in accordance with § 152.080 through 152.085.

(2) If the land is not designated for public use on an official plan, then the developer shall cause the land to be carried in a private easement in the individual deeds affected thereby, and no permit shall be issued for a building permit.

(B) The developer may submit a proposal for development indicating how, through site and engineering design, the intent of this chapter will not be violated if approved. In addition, the developer shall provide a surety bond to the approving city to ensure that such will be done at a specific time if approved.

(C) Any development or platting shall comply with the city’s zoning ordinance and/or county shoreland regulations.

§ 152.066 OPEN SPACE AND LANDSCAPING.

(A) (1) Every subdivision shall include a landscape plan that identifies areas of public value, including significant views, natural vegetation, or watercourses, even where the features may be located upon private lots.

(2) The landscape plan shall provide for the addition of trees, shrubs, and ground covers or grasses that achieve the following objectives:

(a) Establish naturalized woodland areas in large spaces;

(b) Establish naturalized areas around stormwater ponds; and/or

(c) Establish naturalized woodland areas at the edges of subdivisions, particularly in areas of land use changes or where the subdivision abuts a major roadway, utility line, or railroad.

(B) The landscaping plan shall be accompanied by a reliable estimate of installation costs. The subdivider shall provide a financial security that guarantees live growth of the plant materials for one complete year or two growing seasons from the date of installation. In the event the plant materials under this plan must be replaced due to death, disease, or other reason, the financial security shall be extended to cover an additional two years from the date of replacement.

§ 152.067 PROTECTED AREAS.

(A) Where land proposed for subdivision is deemed environmentally sensitive by the city due to the existence of wetlands, drainageways, watercourses, floodable areas, or steep slopes, the design of the subdivision shall clearly reflect all necessary measures of protection to ensure against adverse environmental impact.

(B) Based upon the necessity to control and maintain certain sensitive areas, the city shall determine whether protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of easements or outlots.

(C) In general, measures of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the applicant shall be required to demonstrate that the proposed design will not require construction on slopes over 18%, or result in significant alteration to the natural drainage system such that adverse impacts cannot be contained within the plat boundary.

§ 152.068 MAIL AND PAPER BOX LOCATIONS.

(A) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BOXES. All mail boxes, paper boxes, and advertising boxes, wherein either mail is distributed, newspapers and magazines are distributed or advertising placed for the use of residents of the city.

(B) Requirements; location of boxes on city streets. The placement of all boxes shall comply with the following specifications.

(1) No boxes shall be placed within ten feet of any stone sewer inlet or any fire hydrant.

(2) Where there is more than one house on a city block, boxes shall be located in a cluster. Paper boxes and advertising boxes must be located in the same cluster as the mail boxes. The clusters shall be centrally located in the middle of the homes to be served.

(3) For cul-de-sacs, the cluster shall be placed a minimum of ten feet from the beginning of the radius of the cul-de-sac.

PARKS, OPEN SPACE, AND PUBLIC USE

§ 152.080 DEDICATION REQUIREMENTS.

(A) The City Council recognizes that the preservation of land for park, open space, and public use is essential to the health, safety, and welfare of residents of the city. Therefore, pursuant to M.S. § 462.358, subd. 2b, as it may be amended from time to time, the Council shall require all developers requesting platting or replatting of land to be used for residential purposes in the city to contribute an amount of land for public park and pathway purposes. The location of the land shall be at the discretion of the Council.

(B) The amount of the land shall be reasonably commensurate with demand that the platting or replatting places on the city park system, as described in the Comprehensive Plan. For purposes of this section, an amount of land equal to 11% of the total gross land area of the plat shall be presumptively defined as REASONABLY COMMENSURATE.

(C) In the event that the subdivider objects to the 11% standard, the city shall, at the developer's request and expense, conduct a specific dedication study of the park system and the demand placed on the system by the proposed plat. Prior to conducting the study, the city shall obtain a waiver of statutory time lines for plat approval during the conduct of the study. No approval of final plats, nor construction of any improvements, shall occur until the park dedication study is completed. In lieu of land dedication, the City Council may require a cash contribution in accordance with state statutes or a combination of both. The Council's decision on land and/or cash shall be made following recommendations from the city's Park and Recreation Commission and staff, in accordance with the Comprehensive Plan.

(D) In accordance with state statutes, where the City Council determines that the park dedication requirements shall be paid in a cash contribution, the amount of the contribution shall be based on the market value of the raw land not later than at the time of final plat.

(E) The city may require that the subdivider provide an appraisal or other comparable documentation to determine the market value. In the alternative the city may, by ordinance, establish a fee per residential unit that will meet the cash dedication requirement. The determination of the appropriate fee calculation shall be made by the City Council.

(F) (1) To be eligible for park dedication credit, the land to be dedicated as a requirement of this section shall be useable, developable land.

(2) The City Council shall not accept for credit against a subdivider's park dedication requirement any of the following:

(a) Delineated wetlands;

(b) Land within a designated floodplain;

(c) Land encumbered by a utility easement such as a petroleum or electric power transmission line (except where such easement is a standard platting requirement of the city pursuant to § 152.061, and where the city determines that the land within the easement will be usable for park, trail,

or open space purposes); or

(d) Land within a drainage easement or other land required for stormwater treatment.

(G) The city may, at its discretion, accept lands in the above categories for park dedication purposes if it deems the dedication to be of public benefit. No credit shall be given against the subdivider's park dedication requirement, however, unless the city determines that the land will be used for a specific public park, pathway, or open space purpose.

(H) Land dedicated for park purposes shall be transferred to the city by warranty deed. The transfer of the land shall occur at the time of recording of the final plat. For multiple-phased developments, all of the park dedication land shown on the approved preliminary plat shall be transferred to the city upon recording of the first final plat, in the form of outlot(s) at the discretion of the city, and shall not be shown as "park" on the plat. The development agreement may permit the phasing of the land transfer.

(I) In addition, the development agreement shall grant the subdivider a license to enter the park dedication land for the purposes of required grading, seeding, or other work approved by the City Council.

(J) Parkland dedication requirements for residential planned unit developments (PUDs) shall provide the minimum of 11% for park, open space, or public use or cash in lieu of land per this chapter.

(K) The removal of trees, topsoil, storage of construction equipment, burying of debris, or stockpiling of surplus soils is strictly prohibited on land to be dedicated per this section.

(L) The subdivider shall provide the city with a certificate of survey that shows all features of the land to be dedicated.

(M) Agreements in this section shall be made as part of the development agreement presented for approval with the final plat. Failure of the City Council and subdivider to reach agreement regarding he matters in this section shall constitute the basis for consideration to deny the plat.

§ 152.081 CASH CONTRIBUTION.

All monies collected from cash contributions shall be placed in a special fund from which only those public uses as listed in above may be constructed or improved or land for those same uses may be acquired.

§ 152.082 COMBINATION OF LAND DEDICATION AND CASH CONTRIBUTION.

A combination of land and cash may be required and approved by the City Council in satisfaction of the requirements of this chapter. In the event a combination of land and cash is required, the amount of land to be dedicated shall be credited against the total park dedication requirements and the remaining cash contribution shall be based on the percent of the remaining unfulfilled park dedication obligation.

§ 152.083 DELAYED DEDICATION PAYMENT.

(A) Upon petition by the developer, the City Council may approve a delay in the actual dedication of the cash required in lieu of land until such time as development occurs on the property being platted, provided that a proper legal agreement is executed guaranteeing such dedication.

(B) Delayed dedication payment may be subject to interest payment per year as set by the Council.

§ 152.084 PURCHASE OR CONDEMNATION OF LANDS.

(A) Where a proposed park, playground, or other recreational area, proposed school site, or other public ground that has been indicated in the official map and/or master plan is located in whole or in part within a proposed subdivision, the proposed public site shall be designated as such and should be dedicated to the city, school district, or other proper governmental unit.

(B) If the subdivider chooses not to dedicate an area in excess of the land required hereunder for such proposed public site, the City Council may consider acquiring the site through purchase or condemnation.

§ 152.085 LOCATION AND CONFIGURATION OF DEDICATION.

In such cases where the developer is required to dedicate land area, the City Council shall have the right to determine the geographic location and configuration of the dedication.

BASIC REQUIRED IMPROVEMENTS

§ 152.100 GENERAL.

(A) Development agreement.

(1) Before a final plat is approved by the City Council and prior to recording or registering a final plat, the owner or subdivider of the land covered by the plat shall execute and submit to the Council an agreement, which shall be binding on his, her, or their heirs, personal representatives, and assigns, which embodies the terms and conditions of the approval given by the Council, including, but not limited to, requirements set forth in this chapter and which controls the installation of all required improvements. The agreement will require all improvements in compliance with approved engineering standards and applicable regulations. Said development agreement shall provide for the supervision and inspection of the construction by the City Engineer and shall provide for the fees and securities in connection to the improvements.

(2) The owner or subdivider shall cause no private construction to be made on the plat or file or cause to be filed any application for building permits for the construction until all improvements required under this chapter have been made or arranged for in the following manner, as respects the streets to which the lots sought to be constructed have access.

(B) Trunk utility area fees. As a condition to subdivision plat approval, subdivider shall pay both a trunk storm sewer, trunk sanitary sewer fee, and a trunk water main fee to the city to fund the trunk storm sewer, trunk sanitary sewer, and trunk water main improvements required by the proposed development. The city shall establish the trunk fees by ordinance. The city shall incorporate these trunk fees into the development agreement with the subdivider, which shall be collected with any new subdivisions in accordance with the public improvement financing policy of the city, as may be amended, and which may be assessed.

(C) Securities. In order to cover the legal, engineering, and administrative costs and expenses incurred by the city in connection with the review and approval of the subdivision and the inspection of the actual installation and construction of the improvements, the owner or subdivider, shall, before recording the final plat, deposit with the city an escrow amount, which shall be based on a percentage of the engineer’s estimate of

the cost of the construction of the improvements. The percentages shall be set in the city fee schedule.

(D) Construction plans. Construction plans and specification for the required improvements conforming in all respects with all ordinances of the city shall be prepared at the expense of the owner or subdivider by a professional engineer registered by the state. Such plans and specifications shall be approved by the City Engineer and shall become a part of the development agreements. Prints of said plans shall be filed with the city, as required by the City Engineer.

§ 152.101 CONSTRUCTION IMPROVEMENTS.

(A) (1) No final plat shall be approved by the City Council without first receiving a report from the City Engineer certifying that the improvements described herein, together with the agreements and documents required herein, meet the minimum requirements of all applicable ordinances.

(2) Drawings showing all improvements as built shall be filed with the City Clerk.

(B) No final plat shall be approved by the City Council on land subject to flooding or containing poor drainage facilities and on land which would make adequate drainage of the streets and lots impossible. However, if the subdivider agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for residential occupancy and provide adequate street and lot drainage and conform to applicable regulations of other agencies such as the U.S. Corps of Engineers or the Department of Natural Resources, the final plat of the subdivision may be approved.

(C) In addition, the plats may not be approved if the cost of providing municipal services to protect the floodplain area would impose an unreasonable economic burden upon the city.

(D) As a condition of final plat approval, the development agreement shall make provision in the manner hereinafter set forth for the installation, at the sole expense of the subdivider, of such improvements as shall be required by the city, which improvements may include, but are not limited to items included in division (G) below. The installation of said improvements shall be in conformity with city approved construction plans and specifications and all applicable city standards and sections of this code. The subdivider shall not commence with construction of improvements until financial assurances are provided as contained in the development agreement.

(E) Developer installed improvements.

(1) No owner or subdivider shall be permitted to start work on any improvements without providing the city a financial security, in a form acceptable to the city and consistent with city ordinance or policy as adopted by the City Council, guaranteeing the improvement will be installed in accordance with all laws, rules, regulations, and policies as approved by the city. The amount of the financial security shall be 125% of the engineer's estimate of the total cost of the improvements to be installed, as verified by the City Engineer and set forth in the development agreement. In the event the required improvements are not completed within the specified timeline, all amounts held in the development agreement as security may be drawn upon by the city and applied by the city to the cost of completing the required improvements. If the available securities are not sufficient to complete the required improvements, the necessary additional cost to the city shall be assessed against the subdivision.

(2) Securities may be reduced from time to time prior to improvement acceptance upon submission of formal request by the owner or subdivider. No reduction of security shall be authorized unless the improvements associated with the reduction request have been inspected by the city and found to be in compliance with this chapter and satisfactory evidence of contractor payment has been provided.

(3) Prior to any public improvement being accepted by the city, the owner or subdivider shall post a maintenance bond or other security in a form acceptable to the city naming the city as obligee in an amount deemed appropriate by the City Council to insure the maintenance of the improvements for a period of 24 months from the date of acceptance or approval by the city.

(4) The owner or sudivider shall continue to be responsible for defects, deficiencies, and damage to improvements during development of the subdivision. No inspection approval of release or reduction of funds from the security as to any component or category shall be deemed to be city final approval of the improvements or otherwise release the owner or subdivider of its obligation relating to the completion of the improvement within the final subdivision until a release on all improvements and maintenance is issued by the City Council declaring that all improvements have in fact been constructed as required.

(5) The applicant shall provide to the city grading and utility as-built drawings of all improvements.

(6) The owner or subdivider engaged in the development of lands and properties may request city participation in the payment of the costs of certain improvements. City participation shall be negotiated with the subdivider and established by the City Council pursuant to entering into a development agreement. The Council shall on a case-by-case basis determine infrastructure impact on areas outside the subdivision. City

required oversizing of infrastructure beyond the appropriate standard residential or commercial equivalent shall be eligible for funding by the city. Source of city funding shall not be a determinate of financial participation.

(7) Nothing in this section shall prohibit or prevent the city from establishing a fee, charge, or assessment against the subsequent subdivider/developers which benefit from the prior improvements for the purpose of maintaining or upgrading the public improvements.

(8) All of the required improvements to be installed under the provisions of this subchapter shall be inspected during the course of their construction by the City Engineer. All of the inspection costs pursuant thereto shall be paid by the owner or subdivider in the manner prescribed in § 152.100(C).

(9) The city shall have the right to install any or all of the required improvements as it may elect and upon such terms and conditions as it may deem appropriate under the circumstances.

(F) City installed improvements.

(1) Any person desiring to have improvements installed may request the city to install the improvements, if the request is accompanied by a written petition signed by 100% of the landowners pursuant to M.S. Ch. 429, as it may be amended from time to time, and a waiver of assessment appeal. Acceptance of the request shall be discretionary on the part of the City Council, based on the benefit to the property owners, and subject to the following conditions and as authorized by state law.

(2) (a) Prior to the making of such required improvements, the City Council shall require the owner or subdivider to pay to the city an amount equal to a minimum of 25% and up to 100% of the estimated total cost of the improvements, including not only construction but all indirect costs.

(b) The actual percentage to be determined by the city in each case based on its review of the following:

1. The financial background of the developer;

2. The normalcy of the unit charge for putting in the improvement;

3. An evaluation of the cost recovery potential through the sale of the land;

4. The likelihood of success of the development; and

5. Developer default on any outstanding assessment payment in the past 12 months.

(3) This payment must be made to the city prior to the City Council adopting the resolution ordering the project.

(4) If approved by the City Council, the city may cause the improvements to be made and special assessments for all costs of the improvements to be levied on the benefitted land, except any land which is or shall be dedicated to the public. The total project cost, less the deposit, will be assessed 100% against the benefitted property payable in not more than ten annual installments with interest at a rate of at least 1.5% (rounded up to the nearest 0.25%) over the rate paid on bonds issued to finance the improvements or, if financed internally, over the then equivalent rate the city determined it would have to pay on bonds issued at that time; provided, however, at the entire assessment balance outstanding against a given parcel is to be paid in full prior to the issuance of a certificate of occupancy permit for principal use of new construction on that parcel or within 180 days after a building permit for new construction is issued, whichever comes first.

(5) Water, sanitary sewer, and storm sewer lateral lines shall be assessed 100% against the benefitted property within the proposed subdivision. These assessments shall be made on a residential housing unit basis.

(6) Water, sanitary, and storm sewer trunk fees will be due at the time of platting or in cases where properties have already been platted, applicable trunk fees will be collected at such time a new building permit is issued.

(7) (a) The cost of constructing permanent streets, including curb and gutter, will be 100% assessed against benefitted property based on front footage. Corner lots shall be assessed for frontage only with no charge made for the long side lot footage. Costs resulting from intersections and side lot footage shall be included in the total amount to be assessed and apportioned over the net assessable footage.

(b) In the case of odd-shaped lots, the footage shall be measured at the building setback line; however, in no event shall the assessable footage be less than the minimum lot width as required by the city.

(8) In the event a building permit is applied for prior to completion of installation of the improvements, an escrow payment to the city shall be deposited in an amount equal to 125% of the estimated total assessment.

(9) Upon completion of the project and determination of the actual cost to be assessed, any overcharge will be refunded and any additional cost will be due the city within 30 days of notification of the additional cost. If, for any reason, subsequent to having made the advance payment to the city the developer should withdraw from the project, the city is entitled to retain an

amount equal to the city's cost related to the project to that time, and the balance shall be refunded to the developer.

(10) At the request of the owner or subdivider, the city may agree to spread all of the assessments against the subdivision on a per lot or residential housing unit basis rather than on the various methods set forth in divisions (F)(5), (F)(6), or (F)(7) above.

(11) In all cases, the procedure for local improvements prescribed in M.S. Ch. 429, as it may be amended from time to time, shall be followed.

(12) The requirements of this subchapter are intended to be compatible with the assessment policy in this division (F).

(G) Minimum improvements.

(1) It is hereby the policy of the city to, as soon as practicable after the approval of the proposed plat, require the installation of all of the following improvements within the subdivision.

(2) In addition to those below, additional improvements may be required by development agreement:

(a) Trunk and lateral sanitary sewer;

(b) Trunk and lateral water main;

(c) Storm drainage facilities;

(d) Stormwater maintenance;

(e) Streets;

(f) Concrete curb and gutter;

(g) Street traffic control devices;

(h) Lot grading;

(i) Trail development;

(j) Sidewalk development;

(k) Electricity (within one-fourth mile);

(l) Natural gas (within one-fourth mile);

(m) Communications (within one-fourth mile);

(n) Water shut-off boxes;

(o) Street striping and signing;

(p) Streetlights;

(q) Landscaping;

(r) Monuments;

(s) As-built plans; and

(t) Easement and deeds

§ 152.102 STREET IMPROVEMENTS.

(A) The full width of the right-of-way shall be graded, including the subgrade of the areas to be paved, in accordance with standards and specifications as approved by the City Engineer.

(B) All streets to be paved shall be of an overall width in accordance with the standards and specifications as approved by the City Engineer.

(C) Curb and gutter will be constructed as required by the standards and specifications as approved by the City Engineer.

(D) If deemed necessary by the City Engineer and City Council, the owner or subdivider shall install street traffic control signals. The signalization shall be constructed in conjunction with the street unless the Council grants a waiver to delay signalization. In the event such waiver is granted, the owner or subdivider shall deposit with the city a sum of money equivalent to the engineer’s estimated cost of the signalization.

(E) Street trees and boulevard sodding shall be planted in conformance with the standards and specifications as approved by the City Engineer.

(F) Street signs shall be installed in conformance with the standards and specifications as approved by the City Engineer.

(G) Street lights shall be installed in conformance with the standards and specifications as approved by the City Engineer.

(H) Mailbox clusters shall in installed in conformance with the standards and specifications as approved by the City Engineer.

§ 152.103 SANITARY SEWER AND WATER DISTRIBUTION IMPROVEMENTS.

(A) Sanitary sewers shall be installed as may be required by standards and specifications approved by the City Engineer.

(B) Sanitary sewer mains and service connections stubbed in to the property line shall be installed to serve all lots in the subdivision and other such properties served by the subdivision sewer main, when the location of

such plat is within an area of the city which is either being assessed for sanitary sewer service or for which such service has been authorized by the City Council.

(C) Water mains and service connections stubbed in to the property line shall be installed to serve all lots in the subdivision and other such properties served by the subdivision water main when the location of such plat is within an area of the city which is either being assessed for water service or for which such service has been authorized by the City Council.

(D) City water facilities, including pipe fittings, hydrants, and the like, shall be installed as may be required by standards and specifications approved by the City Council. Where city water facilities are not available for extension into the proposed subdivision, the Council may by ordinance grant approval for such water facilities to serve all properties within a subdivision where a complete and adequate neighborhood water distribution system is designed in conjunction with the subdivision and complete plans for the system are submitted for approval of the Council.

(E) Where city sewer and water facilities are not available for extension into proposed subdivision, the City Council may permit the use of individual water and sewer systems in accordance with appropriate state regulations.

§ 152.104 GRADING, DRAINAGE AND STORMWATER MANAGEMENT.

(A) Storm drainage.

(1) A system of drainage shall be provided that will conform and implement the city’s comprehensive stormwater plan.

(2) Storm sewers, culverts, stormwater inlets, and other drainage facilities will be required where they are necessary to ensure adequate stormwater drainage for the subdivision. Where required, the drainage facilities shall be constructed in accordance with the standards and specifications as adopted by the City Council.

(B) Stormwater maintenance. Upon successful establishment of permanent erosion control facilities the subdivider shall safeguard the storm sewer system from excess siltation caused by construction until full buildout within a subdivision, including the sodding. The subdivider shall clean all storm sewers and shall also remove silt from all ponding areas which received runoff from the development as well as all temporary erosion control devices (i.e., silt fence).

(C) Lot grading. All lots shall be graded in accordance with the final grading plan. In addition, erosion control measures shall be followed to eliminate erosion. Upon completion of the grading, at least four inches of

topsoil shall be applied to all exposed ground areas. And said areas shall be landscaped in accordance with the final landscape plan.

§ 152.105 UTILITIES.

All necessary utility easements must be recorded prior to utility installation.

(A) Electricity. The subdivider shall be responsible for providing electric service to the plat. Whenever possible, a joint trench shall be utilized for small utilities (cable, fiber, gas, electric, telephone).

(B) Communications. The subdivider shall be responsible for providing phone service to the plat. Whenever possible, a joint trench shall be utilized for small utilities (cable, fiber, gas, electric, telephone).

(C) Natural gas. The subdivider shall be responsible for providing natural gas service to the plat. Whenever possible, a joint trench shall be utilized for small utilities (cable, fiber, gas, electric, telephone).

§ 152.106 MONUMENT AND SURVEY REQUIREMENTS.

(A) Official monuments, as designated and adopted by the County Surveyor’s office and approved by the County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor’s irons to be indicated, each angle of the point of the boundary perimeter to be so monumented.

(B) Proper survey monumentation shall be placed at each lot corner and points of curvature and tangency along street rights-of-way. All Unites States, state, county, or other official bench marks, monuments, or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and block, as an aid to future surveys, shall be shown on the plat.

(C) To ensure that all irons and monuments are correctly in place following the final grading of a plat, a security shall be required until a certificate from the surveyor has been provided to the city verifying the placement of all monuments in accordance with this section.

§ 152.107 PATHWAYS.

(A) Trail development.

(1) Trail improvements shall be installed as shown on the final plat and/or master trail plan.

(2) All accessible bikeway/walkway trailways shall be constructed per the standard detail plats approved by the City Engineer.

(3) Grades and specifications shall be as approved by the City Engineer and shall meet all city, state, and federal requirements.

(B) Sidewalks.

(1) All single-family subdivisions shall have not less than a six-foot-wide concrete sidewalk on at least one side of each through street or anticipated through street to provide for safe pedestrian traffic.

(2) All multi-family subdivisions shall have concrete sidewalks not less than six feet wide on both sides of the main public street spine, unless otherwise approved by City Council. Sidewalks may be required on culs-de-sac.

(3) All sidewalks shall be located within the road right-of-way. Wherever possible, placement of the sidewalk within the right-of-way should allow for a minimum of a one-foot separation between the edge of the sidewalk and the residential property line.

(4) Cost of sidewalk construction within the subdivision shall be borne by the subdivider and not eligible for credit against park and trail dedication fees.

(5) The design must meet current standards of the city, comply with the Americans for Disabilities Act (ADA), and be shown on the preliminary plat for approval. All sidewalks required by the city shall be constructed as shown on the cities standard detail plates.

§ 152.108 OTHER IMPROVEMENTS.

(A) Water shutoff boxes. The water shut-off boxes shall be adjusted at the time the final boulevard grade is established. Water shut-off boxes shall remain visible after the boulevard sod is installed.

(B) Easement acquisition and deed. Prior to the time of construction, the owner or subdivider shall obtain and supply all easements and deeds required for the project. At the time the project is complete and turned over to the city, all easements not dedicated on the final plat shall be deeded to the city in a separate recordable document.

(C) As-built plans. Upon completion of installation of all required improvements, the subdivider shall file with the city copies of plans and specifications showing all improvements as finally constructed and installed in both digital and paper form as required by the City Engineer. Such as-built drawings shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.

REGISTERED LAND SURVEYS AND CONVEYANCE BY METES AND BOUNDS

§ 152.120 REGISTERED LAND SURVEYS.

It is the intention of this subchapter that all registered land surveys in the city should be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and that the Planning Commission shall first approve the arrangement, sizes, and relationship of proposed tracts in such registered land surveys and that tracts to be used as easements or roads should be so dedicated. Unless a recommendation and approval have been obtained from the Planning Commission and City Council respectively in accordance with the standards set forth in this chapter, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys, and the city may refuse to take over tracts as streets or roads or to improve, repair, or maintain any such tracts unless so approved.

§ 152.121 CONVEYANCE BY METES AND BOUNDS.

(A) No conveyance in which the land conveyed is described by metes and bounds shall be made or recorded if the parcels described in the conveyance are five acres or less in area and 300 feet or less in width unless the parcel was a separate parcel of record at the effective date of this chapter.

(B) Building permits will be withheld for buildings or tracts which have been subdivided and conveyed by this method, and the city may refuse to take over tracts as streets or roads or to improve repair, or maintain any such tracts.

FEES

§ 152.135 BASE FEE PER APPLICATION.

To defray administrative costs for processing of subdivision applications, variances, or appeals, a base fee as adopted by resolution shall be paid by all applicants.

§ 152.136 STAFF AND CONSULTANT FEE.

(A) In order to defray the additional cost of processing the applications, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant’s request plus all material cost for the request.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MATERIALS. Includes, but not be limited to, maps, graphs, charts, drawings, and the like, and all printing or reproduction of same.

STAFF AND/OR CONSULTING TIME. Includes any time spent in either researching for or actual production of materials.

(C) The hourly rate for staff and/or consulting time shall be established and made available to the applicant by the City Clerk prior to production of any materials, and the applicant shall be given a reasonable estimate of projected time and/or material costs.

§ 152.137 PAYMENT.

(A) Fees for application shall be payable at the time applications are filed with the City Clerk and are not refundable unless application is withdrawn prior to start of review for referral to the Planning Commission. A deposit to cover staff or consulting time and materials will be established as adopted by resolution and required by the City Clerk at the time the base fee is paid. Any portion of the deposit not spent to defray the above-mentioned costs will be refunded to the applicant within 90 days after the application process is completed.

(B) Fees as established by the development agreement are payable per the terms and conditions as assigned by the development agreement.

VIOLATIONS

§ 152.150 SALE OF LOTS FROM UNRECORDED PLATS.

It shall be unlawful to sell, trade, or otherwise convey or offer to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat, or replat of any subdivision or area located within the jurisdiction of this chapter unless the plan, plat , or replat shall have first been recorded in the office of the County Register of Deeds.

Penalty, see § 152.999

§ 152.151 RECEIVING OR RECORDING UNAPPROVED PLATS.

It shall be unlawful to receive or record in any public office any plans, plats, or replats of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use or for the use of purchasers or owners of lots fronting on or adjacent thereto and located within the jurisdiction of this chapter unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.

Penalty, see § 152.999

§ 152.152 MISREPRESENTATION AS TO CONSTRUCTION, SUPERVISION, OR INSPECTION OF IMPROVEMENTS.

It shall be unlawful for any person, firm, or corporation owning an addition or subdivision of land within the city to represent that any improvement upon any of the streets, alleys, or avenues of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the City Council or has been supervised or inspected by the city when the improvements have not been so constructed, supervised, or inspected.

Penalty, see § 152.999

§ 152.999 PENALTY.

Anyone violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law. Each month during which compliance is delayed shall constitute a separate offense.

CHAPTER 153: ZONING

Editor's note:

The Zoning Ordinance set out in this Chapter 153 was originally adopted by reference in a prior version of this code. Said Zoning Ordinance was codified in full for the first time in November, 2022. Subsequent amendments to the ordinance, after it was set out in full, will be indicated by legislation histories placed at the end of the affected sections.

Section

General Provisions

153.001 Title

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GENERAL PROVISIONS

§ 153.001 TITLE.

This chapter shall be known as "Monticello Zoning Ordinance" except as referred to herein, where it shall be known as "this chapter."

§ 153.002 AUTHORITY.

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 to 462.363, as they may be amended from time to time.

§ 153.003 PURPOSE.

(A) This chapter is adopted for the following purposes:

(1) To implement the policies of the City's Comprehensive Plan;

(2) To protect the public health, safety, and general welfare of the community and its people through the establishment of regulations governing development and use;

(3) To promote orderly development and redevelopment;

(4) To protect the established use areas;

(5) To provide adequate light, air, and convenience of access to property;

(6) To prevent congestion in the public right-of-way;

(7) To prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and allowed residential densities;

(8) To provide for compatibility of different land uses;

(9) To provide for administration and enforcement of this chapter;

(10) To provide for amendments;

(11) To prescribe penalties for violation of such regulations; and

(12) To define powers and duties of the city staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Ordinance.

(B) In their interpretation and application, the provisions of this chapter shall be held as the minimum requirements for the promotion of public health, safety, and welfare.

§ 153.004 EFFECTIVE DATE.

This chapter shall be effective on and after January 27, 2011. The adoption of this chapter shall not be construed to confer any protected legal status on uses in existence prior to the effective date that did not conform to previous ordinance provisions. Uses that were illegal under previous ordinance provisions shall not be converted to a legal nonconforming use by reason of adoption of this chapter.

§ 153.005 APPLICABILITY.

This chapter is applicable to all land located within the city both now and as may be incorporated in the future. The use of land and buildings or structures, and the construction, reconstruction, alteration, expansion, or relocation of buildings or structures shall conform to the provisions of this chapter.

§ 153.006 RELATION TO THE COMPREHENSIVE PLAN.

It is the policy of the City of Monticello that the Comprehensive Plan is the city's guiding document for the regulation of land use and development. The

enforcement, amendment, and administration of this chapter is to be accomplished with due consideration of the recommendations contained in the Comprehensive Municipal Plan as developed and amended from time to time by the Planning Commission and City Council of the city.

§ 153.007 RELATIONSHIP TO OTHER LAWS AND AGREEMENTS.

(A) Conflict with other public laws, chapters, regulations, or permits.

(1) This chapter is intended to complement other municipal, state, and federal regulations that affect land use. This chapter is not intended to revoke or repeal any other public law, ordinance, regulation, or permit.

(2) Where the provisions of this chapter impose greater restrictions than those of any statute, other chapter or regulation; the provisions of this chapter shall apply.

(3) Where the provisions of any statute, other chapter or regulation impose greater restrictions than this chapter, the provisions of that statute, other chapter or regulation shall apply.

(B) Conflict with private agreements.

(1) The existence of any easement, covenant, or other private agreement with respect to property affected by this chapter shall not affect the duty of any interested person to comply with this chapter.

(2) The city shall have no obligation to waive or modify the requirements of this chapter to conform to private agreements, nor shall it be obligated to enforce such agreements.

(C) Conflict between standards in this chapter.

(1) Controlling standards.

(a) In the event of conflict between one or more of the standards in this chapter, priority shall be established based on the following descending hierarchy:

1. Overlay zoning district requirements (§ 153.046);
2. Base zoning district requirements (§ 153.043);
3. Rules of measurement (§ 153.010); and
4. Finishing standards (§§ 153.060 through 153.072).

(b) Example: if an overlay district standard conflicts with a base district standard, the overlay district standard shall control and take precedence.

(2) Conflicts between other standards. In cases where two or more standards conflict within the same hierarchy category identified in division (C)(1) above, the more restrictive standard shall not necessarily control (for example, if two overlay zoning district requirements conflict, this division shall apply). The determination as to which control applies shall be made by the Community Development Department. The following standards shall govern the Community Development Department and the Board of Adjustment and Appeals in issuing use interpretations:

(a) Greater consistency with the goals and objectives contained within the adopted Comprehensive Plan;

(b) More supportive of the purposes of this chapter as described in § 153.003, Purpose;

(c) Increased compatibility with adjacent development and surrounding community character;

(d) Enhanced environmental quality and natural resource protection;

(e) Greater protection and preservation of historic and cultural resources; and

(f) A superior level of building form, design, or architecture.

§ 153.008 TRANSITIONAL REGULATIONS.

(A) Purpose. The purpose of transitional regulations is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, at the time of the adoption of this chapter.

(B) Violations continue. Any violation of previous versions of this chapter shall continue to be a violation under this chapter and shall be subject to the penalties and enforcement set forth in §§ 153.120 through 153.124, Enforcement; unless the use, development, construction, or other activity complies with the provisions of this chapter.

(C) Uses, structures, and lots rendered nonconforming. Where any use, building, structure, or lot that legally existed on the effective date of this chapter does not meet all standards set forth in this chapter, such building, structure, lot or parcel shall be subject to the requirements of §§ 153.105 through 153.110, Nonconformities.

(D) Existing legal nonconformities. Legal nonconforming lots of record and uses that existed on the effective date of this chapter shall be controlled by §§ 153.105 through 153.110, Nonconformities.

(E) Processing of applications commenced or approved under previous ordinances.

(1) Pending application.

(a) Any complete application that has been submitted or accepted for review, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this chapter, shall be reviewed in accordance with the provisions of ordinances in effect on the date the application was deemed complete by the city.

(b) An applicant with a pending application may waive the review available under the prior ordinance through a written letter to the Community Development Department, and instead request review under the provisions of this chapter.

(2) Approved projects.

(a) Approved land use and other related actions by the City of Monticello authorized under the prior ordinance, including building permits that are valid on the effective date of this chapter, shall remain valid until their expiration date, where applicable.

(b) Projects with valid approvals or permits shall comply with the requirements of this chapter where the standards will not materially affect the project. Where use of these standards would materially affect the project, the project shall be completed pursuant to the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.

(c) Any building or development for which a building permit was granted prior to the effective date of this chapter shall be permitted to proceed as permitted or approved, even if such building or development does not conform to the provisions of this chapter, as long as the building permit remains valid.

(d) Building permits authorized in accordance with the ordinance existing prior to the effective date of this chapter shall still be valid, but shall not be renewed if the permit expires. All future permits shall only be issued if in compliance with the requirements of this chapter.

§ 153.009 GENERAL RULES FOR INTERPRETATION.

The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

(A) Meanings and intent. All provisions, terms, phrases, and expressions contained in this chapter shall be interpreted in accordance with the

general purposes set forth in § 153.003, Purpose, and the specific purpose statements set forth throughout this chapter. When a specific section of these regulations gives a different meaning than the general definition provided in this article, the specific section's meaning and application of the term shall control.

(B) Headings, illustrations, and text. In the event of a conflict or inconsistency between the text of this chapter and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

(C) Lists and examples. Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

(D) Computation of time. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the city, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the city. References to days are calendar days unless otherwise stated.

(E) References to other regulations/publications. Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

(F) Delegation of authority. Any act authorized by this chapter to be carried out by a specific official or department of the city may be carried out by a professional-level designee of such official or department.

(G) Technical and non-technical terms. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(H) Public officials and agencies. All public officials, bodies, and agencies to which references are made are those of the City of Monticello, unless otherwise indicated.

(I) Mandatory and discretionary terms. The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(J) Conjunctions. Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

(1) "And" indicates that all connected items, conditions, provisions or events apply; and

(2) "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

(K) Tenses, plurals, and gender.

(1) Words used in the present tense include the future tense.

(2) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

(3) Words used in the masculine gender include the feminine gender, and vice versa.

(L) Terms not defined. If a term used in this chapter is not defined in § 153.012, the Community Development Department shall have the authority to provide a definition based upon the definitions used in accepted sources including but not limited to: A Planners Dictionary; A Glossary of Zoning, Development, and Planning Terms; A Survey of Zoning Definitions; or any standard dictionary.

§ 153.010 RULES OF MEASUREMENT.

(A) Measurements, generally.

(1) Purpose. The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this chapter. These standards may be modified by other applicable sections of this chapter.

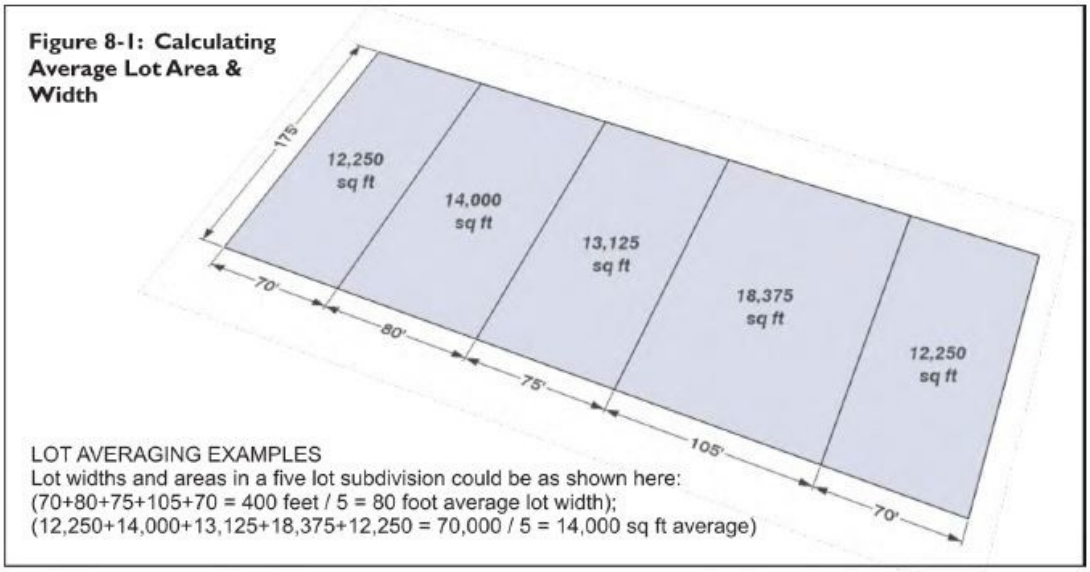
(2) Distance measurements, generally. Unless otherwise expressly stated, distances specified in this chapter are to be measured as the length of an imaginary straight line joining those points.

(B) Lots.

(1) Definitions/measurement.

(a) Average lot size (see Figure 8-1). The mean lot size for all lots being platted.

(b) Average lot width (see Figure 8-1). The mean lot width for all lots being platted.

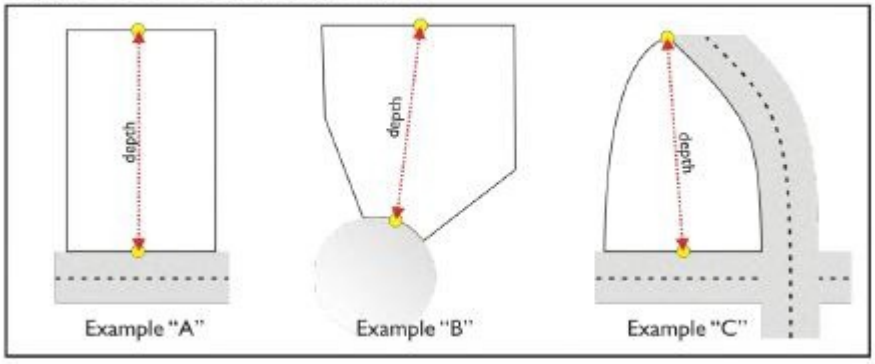


(c) Lot area (see Figure 8-6). The amount of land area, measured horizontally, included within the lines of a lot. Lands located within any private easements shall be included within the lot area. Public rights-of-way and areas below the ordinary high-water (OHW) mark for water features are not to be included in calculating lot area, except where specifically allowed by this chapter. The terms “lot size” and “lot area” shall be interchangeable.

(d) Lot coverage (see Figure 8-6). Lot coverage shall be calculated as the total horizontal surface area of impervious surface on a given lot.

(e) Lot depth. Lot depth shall be determined by a straight line connecti ng the midpoint of the front lot line to the midpoint of the rear lot line, or to the rear most point of the lot when there is no rear lot line (see Figure 8-2 for examples).

Figure 8-2: Measuring Depth



(f) Lot or street frontage. In the case of a building lot abutting upon only one street, the frontage line is the line parallel to and common with the right-of-way. In the case of a corner lot, that part of the building lot having the narrowest frontage on any street shall be considered the frontage line. For the purpose of determining yard requirements on corner lots and double frontage lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as required in this chapter.

(g) Lot line (see Figure 8-3).

1. Corner side lot line. The corner side lot line is a side lot line that abuts a street or other right-of-way.

2. Front lot line. The front lot line is the line connecting the two side lot lines along the street right-of-way having the least width.

3. Rear lot line. The rear lot line is the line connecting the two side lot lines along the edge of the lot opposite from the front line.

4. Side lot line. The side lot line is the lot line connecting the front and rear lot lines regardless of whether it abuts a right-of-way or another lot line.

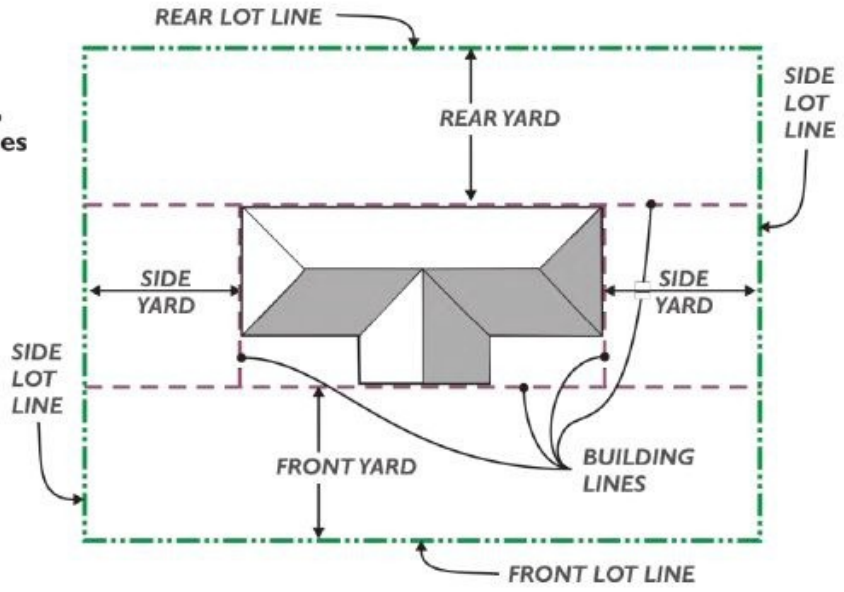


Figure 8-3: Yards, Lot Lines, and Building Lines (in general)

(h) Lot types (see Figure 8-4).

1. Base lot. A contiguous parcel of land in identical ownership throughout, bounded by other lots or streets, and used or set aside and available for use as the site of one or more buildings or other definite

purpose. References to “lot” within this chapter are synonymous with “base lot.”

2. Corner lot. A lot located at the intersection of two or more streets (other than alleys), regardless of whether or not such streets intersect at right angles.

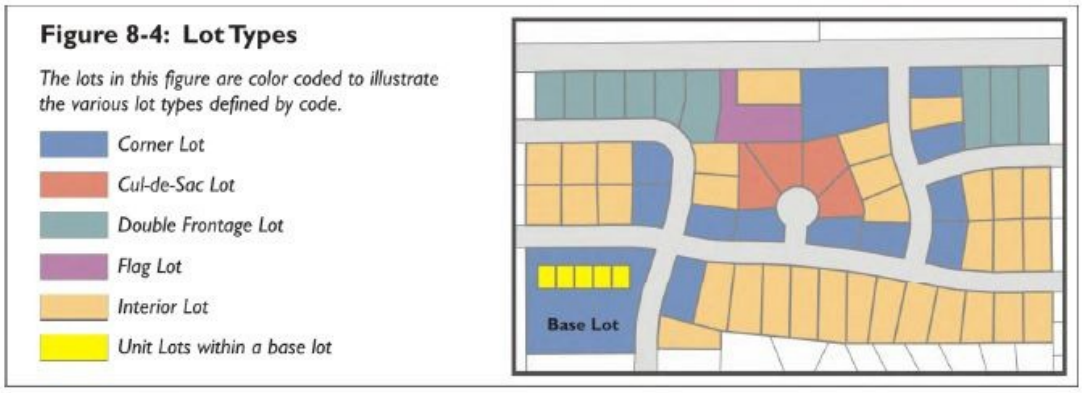
3. Cul-de-sac lot. A lot located on the head or turn around of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.

4. Double frontage lot. A lot other than a corner lot with frontage on more than one street other than an alley.

5. Flag lot. A lot that does not abut or front a street where access is obtained by a narrow private right-of-way.

6. Interior lot. A lot other than a corner lot with only one frontage on a street other than an alley.

7. Unit lot. A specialized lot created within a base lot simply for the purpose of defining ownership for certain multi-family dwelling types.

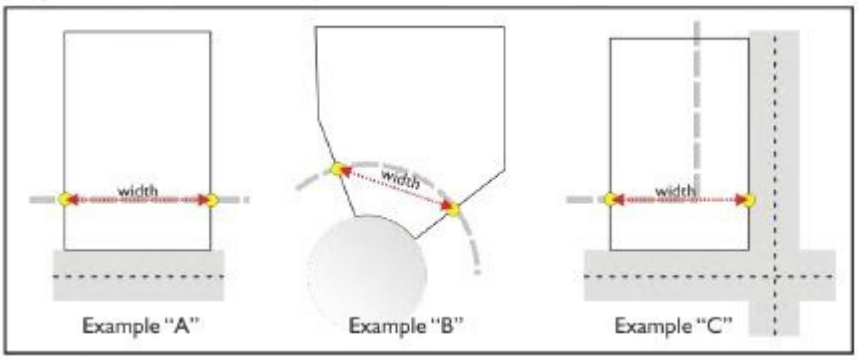


(i) Lot width (see figure 8-5).

1. Lot width shall be determined by a straight line connecting the endpoints determined by the intersection of the side lot lines and the required front yard setback.

2. The width of a corner lot shall be calculated from the side with the least frontage on a right-of-way.

Figure 8-5: Measuring Width



(2) General lot requirements.

(a) Erection of more than one principal structure on a platted lot. Whenever any land is subdivided, a building permit for the construction of a building or other principal structure (excluding buildings under common ownership or unified control) shall not be issued unless the land is subdivided in accordance with the procedures and standards of this chapter.

(b) Lots divided by zoning district lines. Whenever a single lot is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

(3) Required yards.

(a) Definitions/measurement.

1. Accessory structure yard. The minimum yard requirement between a lot line and an allowable accessory structure. Detached accessory structures may not be placed within front yards or corner side yards.

2. Building line (see Figure 8-3). A line formed by the face of a building which is used to establish the yards around a building or structure.

3. Build-to line. A line with which the majority of an exterior wall of a building is required to coincide.

4. Right-of-way (ROW). Land dedicated, deeded, used, or to be used for a street, road, alley, pedestrian way, crosswalk, bikeway, drainage facility, or other public uses, wherein the owner gives up rights to the land so long as it is being or will be used for the dedicated purpose.

5. Setback line. A line located at the inside edge of a required front, side, or rear yard. Exterior building walls may not encroach into the

required yard beyond the building setback line. Portions of a building, (e.g., an overhang, eave, entry stairs, bay windows, foundation planters, etc.) may encroach into a required yard as allowed in § 153.042(D)(2), Allowable Yard Encroachments.

6. Yard. A required open area unoccupied and unobstructed by any building or by any structure or portion of a structure except as allowed by this chapter. Fences, walls, and incidental structures (e.g., flagpoles, birdhouses or feeders, clothesline posts, etc.) may be permitted within a yard provided the structures do not interfere with corner visibility.

7. Yard types (see Figure 8-3).

a. Corner side yard. A side yard extending between the front and rear lot lines parallel to an abutting street or right-of-way.

b. Front yard. A yard extending between side lot lines across the front of a lot between the front lot line and the front building line.

c. Rear yard. A yard extending across the rear of the lot between the rear lot line and the rear building line. In the case of double frontage lots, there is no rear yard, and the requirements for the front yard shall apply to the front and rear.

d. Side yard. A yard extending from the front building line to rear building line. In the case of double frontage lots, the side yard extends from the front building line to the opposing building line associated with the other yard.

e. Zero side lot line. A condition where no side yard is provided between two or more distinct dwelling units sharing a party wall (e.g., townhouse, duplex, attached residential, etc.).

(4) Bulk.

(a) Definitions/measurement.

1. Building coverage. Building coverage is a measure of intensity of a use of land that represents the portion of a site that is covered by building footprint, as well as attached porches, decks, and balconies. Building coverage does not include driveways, streets, sidewalks, and any other areas covered by an impervious surface material, including areas of outdoor storage (see Figure 8-6).

2. Building size. Building size is the total floor area located inside exterior walls and covered by a roof.

3. District size. The minimum size, in acres, of a base or overlay zoning district, including streets, rights-of-way, and open space areas, but excluding unbuildable lands.

4. Floor area. The sum of the gross horizontal areas of the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, and excluding the following:

a. Attic areas with a headroom of less than seven feet;

b. Unenclosed stairs or fire escapes;

c. Elevator structures;

d. Cooling towers;

e. Areas devoted to machinery and equipment for air conditioning, ventilation, heating, and other similar building service needs;

f. Structured parking; and

g. Basement space not used for retailing activities, the production or processing of goods, or for business or professional offices.

5. Floor area ratio. The total floor area of all buildings or structures on a lot divided by the lot area.

Figure 8-6: Coverage & Area Measurements

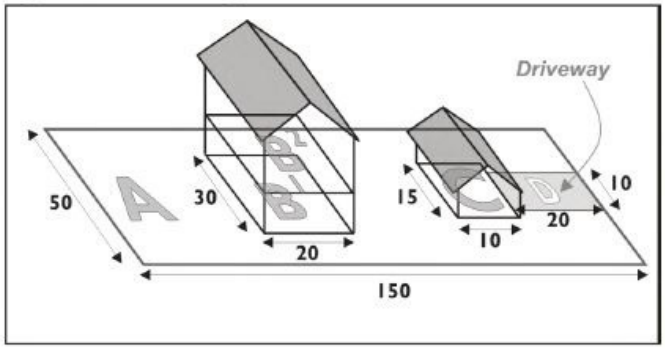
Figure 8-6 illustrates various area measurements:

Lot Area = Area of "A" *(150 x 50 = 7500)*

Building Coverage = Area of B^1 ***+ C***
[(30x20)+(15x10)] = 750

Lot Coverage = Area of B^1 ***+ C + D***
[(30x20)+(15x10)+(20x10)] = 950

Gross Floor Area = Area of B^1 ***+*** B^2 ***+ C***
[(30x20)+(30x20)+(15x10)] = 1350



(5) Height.

(a) Definitions/measurement.

1. Building height. A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deck line of a mansard roof, to the uppermost point on all other roof types.

2. Building story.

a. The space between the surface of any floor and the surface of the next floor above it; or if there is no floor above it, the space between the floor surface and the top of the ceiling joists or roof rafters above it. Typically, story height in a residential structure is nine feet per story, and story height in a non-residential structure is twelve feet per story.

b. If the finished floor level directly above a basement or cellar or unused under-floor space is more than six feet above the grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar, or unused under-floor space shall be considered as a story.

3. Fence and wall height. Fence and wall heights are to be measured from the adjoining average grade. In the case of grade separation such as the division of properties by a retaining wall, the height shall be determined on the basis of measurement from the average point between the highest and lowest grade.

4. Fence and wall height in residential side and rear yards. Where a fence is constructed of posts and panels down a slope in a side or rear yard of residential property, and the top rail of said fence or wall maintains a horizontal alignment, the height of said fence shall be measured as follows: The maximum fence height identified in the ordinance applicable to said fence shall be measured from existing grade to the top of the fence panel nearest to the uphill post. The height of the top edge of the fence panel may exceed the maximum required height by up to two feet when measured at the downhill post. Any fencing used to enclose the gap below the fence panel shall match the panel in material, color, and style, or may be retaining wall constructed of stone, brick or concrete masonry units designed and sold explicitly for such purpose.

5. Grade. Grade means the level of the finished ground surface immediately adjacent to the exterior walls of a building.

(Ord. 799, passed 2-27-2023)

§ 153.011 ABBREVIATIONS.

The following is a glossary of acronyms or abbreviations used within this chapter.

ACI
ADA
APA
ATM
CBD
CDBG
COW
CR
CUP

DA
DNR
DOT
DU
DU/A
EA
EIS
EPA
FEMA
GIS
GVW

HWY
K
LB
LOS
MI
MnDOT
OHW
OZ
PCA
PUD
ROW
SF
SM
SQ
Ton
TWP
UBC
V/CR
WECS
ZO

§ 153.012 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY. A use, activity, structure, or part of a structure that is subordinate and incidental to the main activity or structure on the site.

ACCESSORY BUILDING - MAJOR. A building which is accessory to a principal structure and is required to be constructed with a building permit per Minn. Rule 1300.0120.

ACCESSORY BUILDING - MINOR. A building which is accessory to a principal structure and exempt from a building permit per Minn. Rule 1300.0120.

ADULT USES. Adult uses include adult bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult steamroom/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statutes, are not included.

SPECIFIED ANATOMICAL AREAS.

(a) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty.

(b) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence.

(c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation.

(d) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast.

(e) Situations involving a person or persons, any of whom are nude, clad in undergarments, or in sexually revealing costumes; and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons.

(f) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being.

(g) Human excretion, urination, menstruation, vaginal, or anal irrigation.

ADULT USE/ACCESSORY. The offering of goods and/or services which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

ADULT USE/PRINCIPAL. The offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

ADULT USE BODY PAINTING STUDIO. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."

ADULT USE BOOKSTORE. A building or portion of a building used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT USE CABARET. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas."

ADULT USE COMPANIONSHIP ESTABLISHMENT. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT USE CONVERSATION/RAP PARLOR. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT USE HEALTH/SPORT CLUB. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT USE HOTEL/MOTEL. Adult hotel/motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."

ADULT USE MASSAGE PARLOR/HEALTH CLUB. A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT USE MINI-MOTION PICTURE THEATRE. A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT USE MODELING STUDIO. An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

ADULT USE MOTION PICTURE ARCADE. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and

where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

ADULT USE MOTION PICTURE THEATRE. A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT USE NOVELTY BUSINESS. A business which has, as a principal activity, the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

ADULT SAUNA. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing; utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT STEAM ROOM/BATHHOUSE FACILITY. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing; utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

AGRICULTURAL BUILDING. A structure on agricultural zoned land designed, constructed, and used to house farm implements or agricultural produce or products used by the owner, lessee, or sub-lessee or their immediate families, their employees, and persons engaged in the pick up or delivery of agricultural produce or products grown or raised on the premises. The term "agricultural building" shall not include dwellings.

AGRICULTURAL SALES. The retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products. The operation may be indoors or outdoors, include pick-your-own or cut-your-own opportunities, and may involve the ancillary sale of items considered accessory to the agricultural products being sold or accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and home-made handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25% of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory

items. No activities other than the sale of goods as outlined above shall be allowed as part of the agricultural sales business.

AGRICULTURE. Those commonly associated with the growing of produce on farms. These include: field crop farming; pasture for hay; fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening and livestock raising and feeding, but not including fur farms, commercial animal feed lots, and kennels.

ALLEY. A public right-of-way less than 30 feet in width which affords secondary access to abutting property.

ANTENNA, COMMERCIAL TRANSMISSION AND RECEPTION. Shall mean commercial and industrial communications equipment accessory to business operations of one meter in width or greater, but not personal wireless telecommunications service equipment.

ANTENNA, PRIVATE AMATEUR RADIO. Shall mean equipment, including antennae, antennae support structures, and other related material, necessary to conduct Ham and Short Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

ANTENNA, PRIVATE RECEIVING. Television and other electronic reception antennae for private use.

ANTENNA, TELECOMMUNICATION. A device used for the transmission and/or reception of wireless communications, usually arranged on an antenna support structure or building, and consisting of a wire, a set of wires, or electromagnetically reflective or conductive rods, elements, arrays, or surfaces, inclusive of the following: private amateur radio antenna(s), private receiving antenna(s), commercial transmission and reception antenna(s), and wireless telecommunications service antenna(s).

ANTENNA, WIRELESS TELECOMMUNICATIONS SERVICE. Shall mean any equipment necessary to provide or support all types of wireless electronic communications, including, but not necessarily limited to, wireless "cellular" telephone, radio, and internet transmission and reception communications between mobile communications providers and users, including public safety communications.

ANTENNA SUPPORT STRUCTURE. Any pole, telescoping mast, tower, tripod, or other structure which supports an antenna. Such structure may be freestanding or attached to a building or other device that conforms to this chapter.

APARTMENT. A room or suite of rooms which is designed for, intended for, or occupied as a residence by a single-family or an individual and is

equipped with cooking facilities. Includes dwelling unit and efficiency unit. An apartment is offered only as a rented or leased residence, as distinguished from condominiums and townhouses, which allow for separate ownership.

APPURTENANCES. The visible, functional, or ornamental objects accessory to, and part of a building, such as chimneys, fire escapes, open decks, stoops, steps, bay windows, roof overhangs, awnings, solar energy systems and similar features.

ARTIFICIAL OBSTRUCTION. Means any obstruction which is not a natural obstruction (see Obstruction).

AS-BUILT PLANS. Record drawings of as-constructed improvements.

ASSISTED LIVING FACILITY. A multiple-family structure that includes a special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of people who need help with activities of daily living, but where the emphasis of the facility remains residential. Residents of assisted living facilities do not require hospitalization or skilled or intermediate nursing care associated with nursing home facilities, but do, because of their advanced age, require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency, or medication prescribed for self-administration.

ATTENTION GETTING DEVICE. Any device whose primary purpose is to attract public attention to a use of land (but which is not a building or the use of land itself), whether two or three dimensional, and whether through graphics, light, movement, shapes or other method. Such device may be either permanent or temporary, and would be regulated as a sign under the appropriate sections of this chapter.

AUCTION HOUSE. A building, area, or areas within a building used for the public sale of goods, wares, merchandise, or equipment to the highest bidder.

AUTOMATED TELLER MACHINE (ATM). A facility to provide banking and other electronic services that is operated by the customer.

AUTOMOBILE REPAIR - MAJOR. General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair; overall painting or paint job; vehicle steam cleaning. This business performs structural and cosmetic repairs to autos, light trucks, and equipment of 9,000 pounds GVW and less. Allowed: Body repair and painting, frame and/or unibody straightening and repair, glass replacement, sandblasting and/or steam cleaning, undercoating or rust proofing, upholstery work, washing, cleaning, and polishing.

AUTOMOBILE REPAIR - MINOR. A business that performs mechanical and electrical repairs to autos, light trucks, and equipment 9,000 pounds GVW and less. Allowed activities include minor repairs, incidental body and fender work, minor painting and upholstering, tune ups and adjustments, replacement of parts (excluding body and frame), rebuilding of parts or components when installation is available, wheel alignment and balancing, tire repair, radiator repair, washing, cleaning, and polishing, but specifically excluding any operation specified or implied under the definition of "Automobile Repair - Major."

AUTOMOTIVE WASH FACILITY. An area or structure equipped with automatic or self-service facilities for primarily washing automobiles.

BANNERS AND PENNANTS. Attention-getting devices which resemble flags and are of a paper, cloth, or plastic-like consistency.

BASEMENT. Means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BED AND BREAKFAST. A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to breakfast for guests only.

BERM. An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

BEST MANAGEMENT PRACTICES (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including, but not limited to, avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, or prohibitions or other management practices published by state or designated areawide planning agencies.

BLUFF. A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the bluff):

(1) Part or all of the feature is located in a shoreland area;

(2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;

(3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and

(4) The slope must drain toward the waterbody.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BOARDER. A person who regularly receives lodging with or without meals at another's home for pay or services.

BOATHOUSE. A structure designed and used solely for the storage of boats or boating equipment.

BODY ART. Establishments that engage in providing "body art" or "body art procedures" including physical body adornment using, but not limited to, tattooing and body piercing. Body art does not include practices and procedures that are performed by a licensed medical or dental professional if the procedure is within the professional's scope of practice.

BREW PUB. A restaurant-brewery that sells 85% or more of its beer on-site. The beer is brewed primarily for sale in the restaurant and bar, and may be dispensed directly from the brewery's storage tanks. Brewpubs may also sell beer for off-sale consumption in growler containers.

BUILDABLE AREA. The portion of a lot remaining after required yards have been provided.

BUILDING. A structure with a roof, intended for shelter, housing, business, or enclosure.

BUILDING, FRONT FACADE. A building elevation which fronts on a public street, public parking lot, private parking lot available to the general public, or pedestrian walk where customer access to a structure is available.

BUILDING HEIGHT. See § 153.010(B)(5).

BUILDING LINE. See § 153.010(B)(3).

BUILDING, PRINCIPAL. A building in which is conducted the principal use of the lot.

BULK FUEL SALES AND STORAGE. The commercial storage of gasses and fuels in above ground containers.

BUSINESS. Any establishment, occupation, employment, or enterprise where merchandise is manufactured, exhibited, or sold, or where services are offered for compensation.

BUSINESS DAY. A day on which City Hall is open.

BUSINESS SUPPORT SERVICES. Establishments that engage primarily in rendering services to businesses including but not limited to copy shops, printing services, package and postal services, photo processing, janitorial services, and similar operations.

CALIPER. A horticultural method of measuring the diameter of a tree trunk for the purpose of determining size. The caliper inches of a tree shall be determined by measuring the tree's diameter four feet, six inches from the ground.

CANOPY. A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

CANOPY TREE. A tree that has an expected height at maturity of 30 feet or more.

CELLAR. See BASEMENT.

CEMETERY. Land used or intended to be used for burying the remains of human dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with and within the boundaries of the cemetery.

CHANNEL. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

CHARITABLE, FRATERNAL, OR SOCIAL CLUB/LODGE. See PLACE OF PUBLIC ASSEMBLY.

CHURCH. See PLACE OF PUBLIC ASSEMBLY.

CITY ENGINEER. A person who has received training and is given authority by the City of Monticello to design, review, authorize, approve, inspect, and maintain erosion and sediment control plans and practices. The City Engineer is part of the Community Development Department.

CIVIC INTEREST GROUP. A civic interest group is a non-governmental organization which has a public or quasi-public service purpose as its central function, but may include additional uses and activities related to its public function or provided to its membership. A civic interest group may or may not have a specific site location or building which it occupies whether owned or leased. Examples of such groups may include religious institutions, local or national service clubs and organizations, private museums, historical facilities or similar entities.

CLEARING. Any activity that removes the vegetative surface cover.

CLEAR-CUTTING. The removal of an entire stand of trees.

CLINIC/MEDICAL SERVICES. A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

COCKTAIL ROOM. A room that is ancillary to the production of liquor at a production distillery where the public can purchase and/or consume only the liquor produced on site.

COMBINATION USE. The combination of two principal uses.

COMMERCIAL LODGING. A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupation by persons on an overnight basis, not including bed and breakfast establishments or a rooming house. Such uses may include microwaves and refrigerators for each guest unit.

COMMERCIAL OFFICES. A commercial use involving predominantly administrative, clerical, or professional operations. Commercial offices may include professional and administrative training, but shall not include direct retail commercial transaction activities. Professional training may include classes and training offered by professional or administrative entities to consumers of professional services.

COMMERCIAL SELF-STORAGE. A land use characterized by a variety of sized spaces available to the general public for rent on short-term periods, and for which size of individual spaces are less than 1,000 square feet in area. Commercial self-storage facilities are limited to storage use only, with no separate business activities permitted as part of the use.

COMMUNICATION ANTENNAS AND ANTENNA SUPPORT STRUCTURES. See ANTENNA, TELECOMMUNICATION.

COMMUNICATIONS/BROADCASTING. Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Antennas, antenna support structures and satellite dishes are included in this definition. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

COMMUNITY DEVELOPMENT DEPARTMENT. Those departments assigned by the City Administrator to oversee the various aspects of development within the city. Such departments may include but are not limited to planning, building safety, code enforcement, and engineering.

COMMUNITY GARDEN. A public or private facility for cultivation of fruits, flowers, vegetables or ornamental plants by more than one person or group.

CONDITIONAL USE. A permitted use that, because of special requirements or characteristics, may only be allowed in a particular zoning district after review by the city and granting of conditional use permit which imposes conditions deemed necessary to make the use compatible

with other uses permitted in the same zone or vicinity. Conditional uses that cannot be adequately controlled through conditions shall be prohibited. Approved conditional uses and their conditions run with the land and are not specific to property owners.

CONDOMINIUM. A form of property ownership providing for individual ownership of space in a structure together with an individual interest in the land or other parts of the structure in common with other owners. Residential condominium dwelling units are subject to the provisions of the Minnesota Condominium Law, M.S. §§ 515.01 to 515.29, as they may be amended from time to time.

CONSERVATION EASEMENT. A conservation easement is legal land preservation agreement between a landowner and a municipality or a qualified land protection organization. The easement confers the transfer of usage rights from one party to another.

CONSTRUCTION ACTIVITY. A disturbance to the land that results in a change in the topography, or the existing soil cover (both vegetative and non-vegetative). Examples of construction activity may include clearing, grading, filling and excavating.

CONSTRUCTION TRAILER. Trailers used as temporary offices to meet a short-term need while the permanent facilities are being expanded. A temporary use permit is required for such office trailers.

CONTRACTOR. The party who signs the permit, application, construction contract, or development agreement with the city to construct a project. Where the construction project involves more than one contractor, the general contractor shall be the contractor that is responsible pursuant to the obligations set forth in this chapter.

CONVENIENCE RETAIL. A retail store not more than 4,000 square feet in area that generally carries a reduced inventory of a variety of items such as dairy products, minor automobile related items, groceries, novelties, magazines, etc. A convenience store may be combined with vehicle fuel sales where permitted.

COOPERATIVE (HOUSING). A multiple-family attached dwelling owned and maintained by the residents. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

COUNTRY CLUB. A membership club or business organized and operated primarily to provide recreational activities such as golf, swimming, tennis, and other outdoor recreation to its members and their guests which includes facilities such as a club house, banquet areas, locker rooms, and pro shop.

COURT. An unoccupied open space other than a yard which is bounded on two or more sides by the walls of the buildings.

CREMATORY. A facility containing furnaces for the reduction of dead bodies to ashes by fire.

DAY CARE - HOME. See definitions for GROUP RESIDENTIAL FACILITY.

DAY CARE CENTER. A service provided to the public in which children of school or preschool age are cared for during established business hours, and which does not qualify as a group residential facility.

DECIDUOUS TREE. A tree that generally loses all of its leaves for part of the year.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site at any point extending above grade.

DENSITY, BASE. The number of dwelling units allowed per net acre of land.

DENSITY, MAXIMUM. The number of dwelling units potentially allowed per net acre of land if certain conditions are met through either performance standards or the planned unit development process.

DEPARTMENT STORE. See RETAIL COMMERCIAL USES (OTHER).

DEPOSIT. Any rock, soil, gravel, sand, or other material deposited naturally or by man into a water body, watercourse, floodplain, or wetland.

DEWATERING. The removal of water for construction activity such as the removal of temporary sediment basin water or appropriated surface or groundwater to dry and/or solidify a construction site.

DISTRICT. An area delineated on the official zoning map that sets forth standards and guidelines for all development within the prescribed zoning district.

DONATION DROP-OFF CONTAINER. A receptacle designed with a door, slot, or other opening that is intended to accept and store donated items.

DRAINING. The removal of surface water or groundwater from land.

DREDGING. To enlarge or clean out a water body, watercourse, or wetland.

DRIPLINE. A vertical line that extends from the outermost branches of a tree's canopy to the ground around the circumference of the tree.

DRIVE-THROUGH SERVICE. A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

DUMPSTER. A container that has a hooking mechanism that permits it to be raised and dumped into a sanitation truck or be hauled away for emptying.

DWELLING. A building or portion thereof designated exclusively for residential occupancy, including one-family, two-family, and multiple-family dwellings, but not including hotels, motels, and boarding houses.

DWELLING, ATTACHED. A structure intended for occupancy by more than one family, including duplexes, townhomes, multi-family dwellings, apartments, and condominiums. Accessory dwelling units as defined and permitted by this chapter are incidental to a principal dwelling unit and are not considered to be attached dwellings.

DWELLING, DUPLEX OR TWO-FAMILY. Any building that contains two separate dwelling units with separation either horizontal or vertical on one lot that is used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or occupied for living purposes.

DWELLING, SINGLE-FAMILY DETACHED. Any building that contains one dwelling unit used, intended, or designed to be guilt, used, rented, leased, let or hired out to be occupied, or occupied for living purposes by one family.

DWELLING, MULTIPLE-FAMILY. A building designed with three or more dwelling units exclusively for occupancy by three or more families living independently of each other but sharing hallways and main entrances and exits.

DWELLING UNIT. An area within a structure designed and constructed to be occupied by one family which includes permanent provisions for living, cooking, and sanitation. Dwelling unit does not include hotels, motels, correctional facilities, nursing/convalescent home, rehabilitation centers, or other structures designed for transient residence. In group residential facilities, multi-family, each separate bedroom, combined with all common areas up to 520 square feet of gross building floor area shall be considered one potential dwelling unit for purposes of calculating dwelling unit density on a multi-family parcel.

EFFICIENCY APARTMENT. A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or dining alcove, and has limited provisions for cooking (kitchenette).

ELECTRIC VEHICLE (EV) CHARGING STATION FACILITY: ELECTRIC VEHICLE (EV) CHARGING STATION FACILITY. An EV CHARGING

STATION (or "charger") is a facility designed and constructed to supply electricity for the purpose of charging one electric motor vehicle, together with the transformers, batteries, inverters, connections, cables, and other equipment necessary to supply such electricity. For the purposes of this chapter, a facility that can serve more than one vehicle at a time shall be deemed to consist of multiple charging stations.

ENTERTAINMENT, INDOOR COMMERCIAL. An establishment providing completely enclosed recreation or entertainment activities. Accessory uses may include the preparation and serving of food or the sale of equipment related to the enclosed uses. Examples of indoor commercial entertainment businesses include bowling alleys, roller and ice-skating rinks, billiards halls, swimming pools, motion picture theaters, and similar amusements. Indoor commercial entertainment uses do not include event centers or adult uses.

ENTERTAINMENT, OUTDOOR COMMERCIAL. An establishment providing recreation or entertainment activities primarily occurring outdoors. Accessory uses may include the preparation and serving of food, the sale of equipment related to the outdoor uses, and complementary indoor entertainment facilities. Examples of outdoor commercial entertainment businesses include, but are not limited to, golf driving ranges, sand volleyball courts, go-carts, and miniature golf courses. Outdoor commercial entertainment uses do not include projectile weapon ranges (archery or shooting), sports stadiums or drive-in movie theaters.

ERECT. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

EROSION. The wearing away of the ground surface as a result of the movement of wind, water, ice and/or land disturbance activities.

EROSION CONTROL. A measure that prevents erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

EROSION CONTROL INSPECTOR. A designated agent given authority by the City of Monticello to inspect and maintain erosion and sediment control practices.

EROSION PREVENTION. Measures employed to prevent erosion. Examples include, but are not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

ESSENTIAL SERVICES. Public or private utility systems for gas, electricity, steam, sewer and water; voice, television, and digital communications systems; and waste disposal and recycling services. These services include underground, surface, and overhead systems and all

accessories thereto such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, hydrants, and other similar features necessary for the function of the essential service. Wireless radio frequency reception and transmission antennas and support structures shall not be considered an essential service. Essential services do not include buildings or uses that include human occupancy or activity beyond occasional service or maintenance.

EVENT CENTER. A multi-purpose commercial venue (public or privately owned) used for the purposes of performances, trade shows, corporate functions, sporting events, private receptions or parties, holiday gatherings or similar attractions.

(1) Common characteristics of event centers, which differentiate such uses from places of public assembly, often include but are not limited to, the following:

(a) Varied and/or irregular activity schedules.

(b) The display and/or sale of retail commercial goods.

(c) The generation of high traffic volumes at varied time periods.

(d) Commercial activities and uses in coordination with the events.

(e) Locations in commercial districts.

(f) Alcohol service as licensed.

(2) Accessory uses may include food preparation facilities, concessions, offices, museums, parks, athletic training or practice facilities, stores, restaurants, structured parking facilities, and patron transportation facilities. Event centers do not include adult uses and places of public assembly.

EVERGREEN TREE. A tree that retains some or most of its leaves or needles throughout the year.

EXISTING TREE CANOPY. The crowns of all healthy self-supporting canopy trees with a diameter at breast height (DBH) of ten inches or greater and understory trees with a caliper size of four inches or greater at breast height.

EXTRACTION OF MATERIALS. The development or extraction of a natural resource in excess of 400 cubic yards from its natural occurrences on affected land without processing.

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

FAMILY. An individual or group that maintains a common household and use of common cooking and kitchen facilities and common entrances to a single dwelling unit, where the group consists of:

(1) Two or more persons each related to the other by blood, marriage, domestic partnership, adoption, legal guardianship (including foster children); or

(2) Not more than four unrelated persons.

FARMERS MARKET. An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.

FENCE. A tangible barrier constructed of any allowable material erected for the purpose of providing a boundary or as a means of protection, or to prevent uncontrolled access, or for decorative purposes (such as an ornamental gate or ornamental gates), or to screen from viewers in or on adjoining properties and streets, materials stored and operations conducted behind it.

FILLING. The act of depositing any rock, soil, gravel, sand, or other material so as to change the natural grade of the land; and/or to fill or partly fill a water body, watercourse, or wetland.

FINAL GRADE. Excavation or fill of material to final plan elevation. Final grade completed as part of individual site development.

FINAL STABILIZATION.

(1) All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed;

(2) For individual lots in residential construction by the contractor, the contractor must either: (a) complete final stabilization as specified above; or (b) establish temporary stabilization including perimeter controls for an individual lot prior to occupation of the structure. If the contractor chooses

(b), it must inform the owner in writing of the requirements for final stabilization;

(3) For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land) final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters and drainage systems and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in subparts (a) or (b) above;

(4) The contractor must clean out all sediment from conveyances and from temporary sedimentation basins that are to be used as permanent water quality management basins. Sediment must be stabilized to prevent it from washing back into the basin, conveyances or drainage ways discharging off-site or to surface waters. The cleanout of permanent basins must be sufficient to return the basin to design capacity. All drainage ditches constructed to drain water from the site after construction is complete must be stabilized to preclude erosion; and

(5) All temporary synthetic and structural erosion prevention and sediment control BMPs (such as silt fence) must be removed as part of the final stabilization on the site.

FINANCIAL INSTITUTION. An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Financial institutions may also provide automated teller machine (ATM) services, located within a fully enclosed space or building, along an exterior building wall intended to serve walk-up customers only, or in a city authorized drive-thru lane.

FINISHING STANDARD. Criterion established to control and limit the impacts generated by, or inherent in, uses of land or buildings. The term "finishing standard" shall be synonymous with "performance standard."

FLAG. Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the flood insurance study for the City of Monticello.

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

FLOOD PROFILE. A graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.

FLOOD-PROOFING. A combination of structural provisions, changes, or adjustment to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

FLOOR AREA. See § 153.010(B)(4).

FLOOR AREA - FINISHABLE. Area within a building-exclusive of mechanical, garage, or unfinished storage space-that could meet all requirements of "finished floor area" after improvements are completed.

FLOOR AREA - FINISHED. To qualify as finished floor area, the space shall be at or above the finished exterior grade, or in the case of lower levels, no less than 42 inches below such grade; must have heat; flooring such as carpet, vinyl, tile, wood or other similar floor covering; a ceiling and walls covered with gypsum board, plaster, or wood which is stained, painted or covered with other residential wall/ceiling covering prior to occupancy. Basements that are neither "look out" or "walk out" levels may be finished, but shall not be counted towards a minimum finished square footage calculation.

FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

FREEWAY CORRIDOR (SIGN) AREA. A special signing area encompassing land located within 800 feet either side (north or south) of the centerline of Interstate 94, in addition to certain areas along Trunk Highway 25 south of Interstate 94 north of Dundas Road, East of Sandberg Road, and West of Cedar Street as shown on the city's official Freeway Bonus Sign District Map.

FUEL PUMP. Equipment or unit designed and constructed to supply gasoline, diesel, natural gas, or other petroleum fuels and oils, electric charging, hydrogen, or any other fuel intended to power motor vehicles.

FUNERAL SERVICES. An establishment that provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home.

GARAGE. An attached or detached accessory structure for the purpose of parking vehicles.

GARAGE SALE. The sale of miscellaneous used items commonly associated with residential use. Garage sales shall not be for the sale of primarily a single commodity. The term "garage sale" includes "sidewalk sale," "yard sale," "basement sale," and "estate sale."

GENERAL WAREHOUSING. Structures used for the storage or distribution of goods where there is no sale of items to retailers or the general public unless permitted as an accessory use to the warehouse.

GRADING. Excavation or fill of material, including the resulting conditions thereof.

GRADING, DRAINAGE AND EROSION CONTROL PERMIT. A permit issued by the municipality for the construction or alteration of the ground and for the improvements and structures for the control of erosion, runoff, and grading. Herein after referred to as "grading permit".

GRADING, DRAINAGE AND EROSION CONTROL PLANS. A set of plans prepared by or under the direction of a licensed professional engineer. Plans are required to indicate the specific measures and sequencing to be used to control grading, sediment and erosion on a development site during and after construction as detailed in the City of Monticello "Plan Requirements and Design Guidelines".

GREENHOUSE/CONSERVATORY. A structure, primarily of glass, in which temperature and humidity can be controlled for the cultivation or protection of plants.

GROUP RESIDENTIAL FACILITY, MULTI-FAMILY. A state-licensed facility, public or private, which regularly provides a planned combination of living conditions, services, and resources for the treatment, rehabilitation, training, supervision, or care of persons residing on the premises which falls into one of the following categories: 1) a state licensed residential facility serving between seven and 16 persons; or 2) a licensed day care facility serving between 13 and 16 persons. This term does not include any type of residential or non-residential facility for persons convicted of crimes, or for persons accused of crimes who are diverted to the facility before conviction; nor does it include a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses.

GROUP RESIDENTIAL FACILITY, SINGLE-FAMILY. A state-licensed facility, public or private, which regularly provides a planned combination of living conditions, services, and resources for the treatment, rehabilitation, training, supervision, or care of persons residing on the premises which falls into one of the following categories: 1) a state licensed residential facility serving six or fewer persons; 2) registered housing with services establishment serving six or fewer persons; 3) a licensed day care facility serving 12 or fewer persons; or 4) a group family day care facility licensed to serve 14 or fewer children. This term does not include any type of residential or non-residential facility for persons convicted of crimes, or for persons accused of crimes who are diverted to the facility before conviction; nor does it include a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses.

GROWLER. A 64 fluid ounce (1.89 liter) container of beer that is made available for purchase at the brewery where it's produced. Said container is available for off-sale consumption only.

HEAVY INDUSTRIAL USE. See HEAVY MANUFACTURING.

HELIPORT. An area used or intended to be used for the landing and takeoff of helicopters, and may include any or all of the areas of buildings appropriate to accomplish these functions.

HIGH RISK TREE. Any tree with structural defects sufficient to render the tree or part of the tree likely to fail and cause damage to persons, property, or other significant vegetation, as determined by a qualified arborist or other tree professional.

HOME OCCUPATION. An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

HOOP BUILDING (see also TARP GARAGE). A portable or permanently anchored structure defined mainly by a steel or PVC frame over which a cover made from plastic, tarp, or other similar type fabrics or materials is placed.

HOSPITAL. A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an inpatient basis, including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, and administration, and services to patients, employees, or visitors.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, parking lots, storage areas and concrete, asphalt, or gravel driveways or roads.

INDOOR FOOD/CONVENIENCE SALES. A small retail establishment located within or associated with another use that offers for sale prepared food or convenience goods such as prepackaged food items, tobacco, periodicals, and other household goods.

INDUSTRIAL SELF-STORAGE. A land use characterized by larger spaces available to occupants for the purposes of storage of commercial, industrial, or personal goods, as well as business, industrial, or hobby activities accessory to such storage as may be permitted within the zoning district, provided that no such space is subdivided to a total area that is less than 2,000 square feet in area.

INDUSTRIAL SERVICES (GENERAL). Businesses that are engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products; or providing other related services primarily for industrial businesses. Industrial service firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Also includes firms such as contractors and building maintenance services and similar establishments engaged in performance of services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking and storage.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

KENNEL (COMMERCIAL). A facility for the boarding, breeding, raising, grooming, selling, training or other animal husbandry activities for dogs, cats or other animals for financial or other compensation.

LAKE, GENERAL DEVELOPMENT. Lakes that usually have more than 225 acres of water per mile of shoreline and 25 dwellings per mile of shoreline, and are more than 15 feet deep.

LAKE, NATURAL ENVIRONMENT. Lakes that usually have less than 150 total acres, less than 60 acres per mile of shoreline, and less than three

dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less than 15 feet deep.

LAKE, RECREATIONAL DEVELOPMENT. Lakes that usually have between 60 and 225 acres of water per mile of shoreline, between three and 25 dwellings per mile of shoreline, and are more than 15 feet deep.

LAND DISTURBING ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the city's jurisdiction, including, but not limited to, clearing, grubbing, grading, excavating, transporting and filling.

LAND RECLAMATION. The reclaiming of land by the importation, depositing, or grading of soils in excess of 400 cubic yards so as to elevate the grade.

LANDSCAPE STRIP, PERIMETER. Vegetative material associated with the perimeter landscaping required for a vehicular use area.

LANDSCAPING/NURSERY BUSINESS. A retail business devoted to the growth, display, and/or sale of plants, shrubs, trees; and/or landscaping materials and services.

LIGHT INDUSTRIAL USE. See MANUFACTURING, LIGHT.

LOT (OF RECORD). A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this chapter, or approved by the city as a lot subsequent to such date and which is occupied by or intended for occupancy by one principal building or principal use together with any accessory buildings and such open spaces as required by this chapter and having its principal frontage upon a street.

LOT. Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this zoning regulation, having not less than the minimum area required by this zoning chapter for a building site in the district in which such lot is situated and having its principal frontage on a street or a proposed street approved by the Council. LOT related definitions (e.g. lot depth, lot area, lot corner, etc): see § 153.010(B).

LOT LINE. A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

MACHINERY/TRUCK REPAIR. This business performs mechanical, electrical, structural, and cosmetic repairs to trucks and heavy equipment. Allowed: Tune ups and adjustment, replacement of parts, rebuilding of parts or components when installation is available, body repair, collision service

and painting, frame straightening and repair, steam cleaning and/or sandblasting, undercoating and rust proofing, radiator repair, tire repair, wheel alignment and balancing, washing, cleaning, and polishing.

MANUFACTURED (MOBILE) HOME. A structure transportable in one or more sections which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on a side, is 760 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and which complies with the manufactured home building code (M.S. § 327.31, as it may be amended from time to time).

MANUFACTURED HOME PARK. A contiguous parcel of land which has been developed for the placement of manufactured homes and is owned by an individual, firm, trust, partnership, public or private association, or corporation.

MANUFACTURING, HEAVY. The manufacturing of products from raw or unprocessed materials, where the finished product may be combustible or explosive. This category shall also include any establishment or facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes, storage silos, or similar equipment that cannot be integrated into the building design, or engaging in large-scale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or particulate that may be offensive or obnoxious to adjacent land uses, or requires a significant amount of on-site hazardous chemical storage shall be classified under this land use.

MANUFACTURING, LIGHT. The mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration.

MARQUEE. Any permanent roof like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

MAXIMUM DENSITY. The number of dwelling units allowed per gross acre of land as controlled by an individual or joint ownership group.

MEAN GROUND LEVEL. The elevation established for the purpose of regulating the number of stories and the height of buildings. Grade shall be

the mean level of the finished surface of the ground adjacent to the exterior walls of the buildings.

MICRO-DISTILLERY. A distillery that produces 40,000 proof gallons of liquor or less annually.

MULTIPLE-TENANT SITE. Any site which has more than one tenant, and each tenant has a separate ground level exterior public entrance.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES). The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

NATURAL DRAINAGE SYSTEM. All land surface areas which by nature of their contour configuration, collect, store and channel surface water run-off.

NATURAL OBSTRUCTION. Means any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within a water body, watercourse, or wetland by a nonhuman cause.

NEXT AVAILABLE AGENDA. The next meeting at which an application can be heard by a reviewing body after consideration of the anticipated time for review and other items already scheduled for future agendas. The Community Development Department has full discretion to select the best future meeting date that will accommodate the administrative and official review of an item provided the overall timeframe for review will comply with all state mandated review deadlines.

NONCONFORMING STRUCTURE OR BUILDING. A structure or building, the size, dimensions, or location of which was lawful prior to effective date of this chapter as denoted in § 153.004, or on the effective date of any amendment to this chapter, but that fails by reason of such adoption or amendment to conform to the requirements of this chapter.

NONCONFORMING USE. Any use lawfully being made of any land, building, or structure not otherwise abandoned, existing on effective date of this chapter as denoted in § 153.004 or on the effective date of any amendment of this chapter, that does not comply with the use regulations of this chapter or the amendment.

NURSING HOME (CONVALESCENT HOME). A facility that provides nursing services and custodial care generally on a 24-hour basis for two or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services; but not including hospitals, clinics, sanitariums, or similar institutions.

OBSTRUCTION (IN RELATION TO FLOODPLAINS). Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

OFFICE USE. An establishment primarily engaged in providing professional, financial, administrative, clerical, and similar services.

OFF-STREET LOADING SPACE. A space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate one truck of the type typically used in the particular business.

OPACITY (OPAQUE). A measurement indicating the degree of obscuration of light or visibility. An object that is 100% opaque is impenetrable by light.

OPEN SALES. Any open land used or occupied for the purpose of buying, selling, and/or renting merchandise and for the storing of same prior to sale. This use includes all outdoor sales and display of goods and/or materials that are not specifically addressed as outdoor storage, sidewalk sales and display, or off-street vehicle parking.

OPEN SPACE. An area on a lot not occupied by any structure or impervious surface.

OPEN SPACE, USABLE. A required ground area or terrace area on a lot which is graded, developed, landscaped, and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways, and parking areas shall not constitute usable open space.

ORDINARY HIGH WATER (NEW SHORELAND DISTRICT CODE). The boundary of public waters which may include wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

OUTDOOR STORAGE. The keeping, in an un-roofed area, of any goods, material, merchandise, or vehicles in the same place for more than 24

hours. This shall not include the display of vehicles for sale in a new or used car sales lot.

OUTPATIENT CARE. Medical examination or service available to the public in a hospital. This service is provided without overnight care and shall be considered a separate, independent, principal use when combined or operated in conjunction with a hospital.

OWNER. The person or entity with a legal or equitable interest in the land on which the construction activities will occur.

PARAPET. A low wall which is located perpendicular to (extension of front wall) a roof of a building.

PARK FACILITY, ACTIVE. A park or recreation facility that includes one or more of the following: buildings, lighting, ball fields, tennis courts, swimming pools, skate parks, golf courses, or other active sports facilities. Active park facilities will commonly include benches, picnic areas, trails, sidewalks, and other similar features.

PARK FACILITY, PASSIVE. A park or recreational facility that does not include the construction of facilities, lighting, or development of ball fields or other active sports facilities. Passive parks may include benches, picnic areas, trails and sidewalks.

PARKING, OFF-STREET. The act of keeping a passenger vehicle as defined herein and/or small commercial vehicles, recreational vehicles and emergency vehicles as defined herein, on an approved parking space, properly surfaced, for a period of less than 24 hours.

PARKING BAY. The parking module consisting of one or two rows of parking spaces or stalls and the aisle from which motor vehicles enter and leave the spaces.

PARKING ISLAND. Landscaped areas within parking lots used to separate parking areas and to soften the overall visual impact of a large parking area from adjacent properties.

PARKING LOT DRIVE AISLE. A vehicular accessway located within an off-street parking or vehicular use area which serves individual parking stalls and driveways.

PARKING SPACE/STALL. An area enclosed in the main building, in an accessory building, or unenclosed sufficient in size to store one automobile which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

PARKING STRUCTURE. A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck

surface of a building. This definition includes parking garages, decks, and ramp parking.

PARKING, SURFACED. A parking space or storage space which is paved, or surfaced with crushed rock, such as Class V limestone, crushed or decomposed granite, "con-bit", or landscaping rock of adequate durability to support the load parked or stored thereon.

PARKING, UNSURFACED. A storage space which is covered by vegetation, such as grass or other landscaped cover, and which is mowed or trimmed to meet the city's weed control regulations. Unsurfaced space may not include bare ground which may be subject to erosion, tracking of mud onto the roadway, or drainage of silt into a public drainage easement or waterway.

PASSENGER TERMINAL. A place that receives and discharges passengers which generally includes facilities and equipment required for the operation. Examples include terminals for bus, taxi, railroad, shuttle van, or other similar vehicular services. This definition does not include bus stops or similar transfer points for passengers at which no facilities (excluding a bench or shelter) are provided.

PAVED. A parking space or storage space which is surfaced with only the following materials: Asphalt, concrete, and natural or man-made paving stones such as brick, granite, or concrete pavers, provided such pavers have a flat surface area of no less than nine square inches.

PERFORMANCE STANDARD. Criterion established to control and limit the impacts generated by, or inherent in, uses of land or buildings. The term "performance standard" shall be synonymous with "finishing standard."

PERIMETER SEDIMENT CONTROL. A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PERMANENT COVER. Final stabilization.

PERMITTED USE. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

PERMITTEE. Applicant for and recipient of an approved permit.

PERSON. An individual, firm, partnership, association, corporation, or organization of any kind.

PERSONAL SERVICES. Establishments that primarily engage in providing services generally involving the care of the person or person's possessions. Personal services may include but are not limited to: laundry and dry-cleaning services, barber shops, beauty salons, health and fitness studios,

music schools, informational and instructional services, tanning salons, body art (including tattooing), and portrait studios.

PHASING (IN RELATION TO GRADING). Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

PLACE OF PUBLIC ASSEMBLY. An institution or facility that congregations of people regularly attend to participate in or hold meetings, workshops, lectures, civic activities, religious services, and other similar activities, including buildings in which such functions and activities are held. Places of public assembly are characterized by individuals arriving and departing at regularly scheduled times and do not include event centers. Common characteristics of places of public assembly, which differentiate such uses from event centers, may include but are not limited to, the following:

(1) Regular activity schedules.

(2) No display and/or sale of retail commercial goods or services.

(3) The generation of traffic at routine time periods.

(4) Predictable traffic volumes during activities.

(5) Locations that may be in commercial, industrial, or residential zoning districts.

PLAN REQUIREMENTS AND DESIGN GUIDELINES. Manual detailing city specifications for all plan requirements.

PLANNED UNIT DEVELOPMENT. A type of development which may incorporate a variety of land uses planned and developed as a unit. The planned unit development is distinguished from the traditional subdivision process of development in that zoning standards such as density, setbacks, height limits, and minimum lot sizes may be altered by negotiation and agreement between the developer, the municipality, and the Commissioner of Natural Resources as may be required.

PLANTING STRIP. Areas intended for the placement of vegetation within the interior of vehicular use areas or along street right-of-way edges, typically between the back of the curb and the inside edge of the sidewalk.

PORTABLE CONTAINER. A large container designed and rented or leased for the temporary storage of commercial, industrial, or residential household goods that does not contain a foundation or wheels for movement.

PRINCIPAL USE. The main use of land or buildings as distinguished from subordinate or accessory uses.

PRODUCTION BREWERY. A facility that manufactures, processes and warehouses beer for wholesale distribution in off-sale packages to retail liquor establishments and may retail beer product for on-site consumption in a taproom for off-site consumption as growlers. A production brewer may not have an ownership interest in a brewery licensed under Minnesota Statutes.

PROFESSIONAL OFFICE - SERVICES. A commercial use involving administrative, clerical, or professional operations, and routinely including direct transactions or consultations with clients for such services. Such uses commonly include legal, financial, insurance, or real estate services, among others, but do not include retail sales of stock-in-trade goods.

PUBLIC BUILDING OR USE. Any facility, including but not limited to buildings and property that are leased or otherwise operated or funded by a governmental body or public entity.

PUBLIC WAREHOUSING. The indoor storage of equipment and/or materials by a government agency which may, or may not, be related to other principal uses on the same property.

PUBLIC WATERS. Any waters as defined in M.S. § 103G.005, subd. 15, 15a, as it may be amended from time to time.

REACH (IN RELATION TO FLOODPLAINS). A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

REAL ESTATE OFFICE/MOBILE SALES HOME. A dwelling temporarily used as a sales office for a residential development under construction for on-site sales.

RECREATIONAL VEHICLE CAMP SITE. A lot or parcel of land occupied or intended for occupancy by recreational vehicles for travel, recreational, or vacation usage for short periods of stay subject to the provisions of this chapter.

RECYCLING AND SALVAGE CENTER. A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the flood insurance study.

REGULATORY FLOOD PROTECTION ELEVATION. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

REPAIR ESTABLISHMENT. An establishment primarily engaged in the provision of repair services for TV's, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including tailor; locksmith; and upholsterer.

RESTAURANT. An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Such a facility may include indoor and outdoor seating and/or drive through services.

RETAIL COMMERCIAL USES (OTHER). A commercial land use where the establishment is primarily engaged in the sale of goods and materials to the general public, accepts payment or orders for, and delivers to the end user a good or service. Elements of the retail business include stock-in-trade held on the premises in the case of goods or provides a service to the end user on the premises. Retail businesses may arrange for delivery of a good rather than deliver the good concurrent with the transaction, or may accept payment or orders electronically in advance, for delivery of the good or service in person at a later date. Retail commercial uses do not include those business engaged primarily in delivery of goods for further treatment or finishing, or the sale of goods to businesses for subsequent resale, sale of goods from moveable motorized vehicles, or medical clinics. Where the Zoning Ordinance establishes a separate class of use for a specific business, such business shall be subject to the specific regulations applicable to such use.

RETAIL SERVICE. A retail service establishment is a form of retail business that creates a product of value (either good or service) on site and delivers said good or service to the end user on site. Examples of retail services include businesses which fabricate and/or craft creative goods on site and both display and sell such goods to the end user at the retail location such as artist studios, bicycle shops, photography studios or similar uses. Where the Zoning Ordinance establishes a separate class of use for a specific business, such business shall be subject to the specific regulations applicable to such use.

RIVER, AGRICULTURAL. Rivers that run through intensively cultivated areas, mainly in the southern and western area of Minnesota.

RIVER, FORESTED. Rivers that are in forested, sparsely to moderately populated areas with some roads; typically found in northeast, southwest and north-central Minnesota

RIVER, REMOTE. Rivers that are primarily in roadless, forested, sparsely populated areas in northeastern Minnesota.

RIVER, TRANSITION. Rivers that are in a mixture of cultivated, pasture and forest lands.

RIVER, TRIBUTARY. Rivers in the Protected Public Waters Inventory that are not classified by the DNR as an agricultural, forested, remote or transition river.

ROOF. The exterior surface and its supporting structure on the top of a building or structure. The structural makeup of which conforms to the roof structures, roof construction and roof covering sections of the International Building Code.

ROOT ZONE. The area inside the dripline of a tree that contains its roots.

SCHOOL, HIGHER EDUCATION. A public or private non-profit institution for post-secondary education or a public or private school offering vocational or trade instruction to students. Such educational institutions operate in buildings or structures on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, PRE-K-12. A public or private school offering general, technical, or alternative instruction at the elementary, middle, or high school level that operates in buildings or structures on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only in middle or high schools), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCROLLING TEXT. A type of dynamic sign movement in which the letters or symbols move horizontally across the sign in a continuous scroll, permitting a viewer to observe the message over time. Scrolling shall not include flashing or other types of video movement.

SEDIMENT. The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, air or ice, and has come to rest on the earth's surface either above or below water level.

SEDIMENT CONTROL. Measures and methods employed to prevent sediment from leaving the site.

SELF-STORAGE FACILITY. A building or group of buildings that contains equal or varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of residential or commercial customer's goods or wares.

SEMIPUBLIC USE. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENIOR HOUSING. A multiple-family structure, 80% of whose occupants shall be 65 years of age or over, or a multiple-family structure where each unit is occupied by at least one person who is 55 years of age or over and is retired. The facility may include common areas for the congregation of occupants for activities or meals. Senior housing shall typically consist of multiple-household attached dwellings, but may include detached dwelling units as part of a wholly owned and managed senior project.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SETBACK. The horizontal distance between a structure and the lot lines of the lot on which it is located; or the minimum horizontal distance between a structure, sewage treatment system or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

SEWAGE TREATMENT SYSTEM. a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Minn. Rules Chapter 7080.

SEWER SYSTEM. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

SHADE TREE. A tree planted or valued chiefly for its shade from sunlight; this term usually applies to large trees with spreading canopies.

SHELTER, FALLOUT. An accessory building specifically designed and used for the protection of life from radioactive fallout.

SHELTER, STORM. An accessory building specifically designed and used for the protection of life from weather events.

SHOPPING CENTER. An integrated grouping of commercial stores under single ownership or control. See also RETAIL COMMERCIAL USES.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the required structure setback.

SHORELAND. Land located within the following distances from public water:

(1) One thousand feet from the ordinary high water mark of a lake, pond, or flowages.

(2) Three hundred feet from a river or stream, or the landward extent of a floodplain designated by ordinance on such river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the Commissioner of the Department of Natural Resources or the commissioner's designated representative.

(3) The area included in the recreational land use districts for the Mississippi River as defined in Minn. Rules Chapter 6105.0800-0950.

SHRUB. A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

SIDEWALK SALES AND DISPLAY, OUTDOOR. Outdoor sale and display, conducted as an accessory, incidental activity by the proprietor, of products normally sold inside a retail establishment, subject to the limitations identified in this chapter.

SIGN. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

SIGN FACE. The surface of the sign upon, against, or through which the message of the sign is exhibited.

SIGN STRUCTURE. Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

SIGN, ABANDONED. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed

abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Where a sign has received a special permit or other city approval, such approval shall run with the principal use of the property, and such a sign shall be considered to be abandoned under this definition when it meets the conditions specified in this section, notwithstanding the prior special approval.

SIGN, AREA. A sign identifying a series of related parcels or uses, rather than a specific parcel or use.

SIGN, AREA IDENTIFICATION. A freestanding sign which identifies the name of a neighborhood, a residential subdivision, a multiple residential complex consisting of three or more structures, a shopping center consisting of five or more separate business concerns, an industrial area, an office complex consisting of three or more structures, or any combination of the above located on contiguous property.

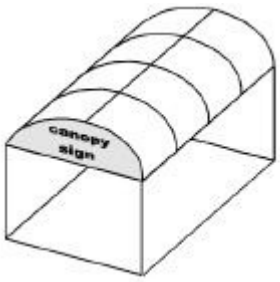
SIGN, AWNING. A building sign or graphic printed on or in some fashion attached directly to the awning material.

SIGN, BALLOON. A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than 24 inches in diameter.

SIGN, BILLBOARD. See OFF-PREMISEs SIGN.

SIGN, BUILDING. Any sign attached or supported by any building.

SIGN, CANOPY. Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.



SIGN, CHANGEABLE COPY. A sign or portion thereof that has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects not consisting of an illumination device and may be changed or rearranged manually or mechanically with characters, illustrations, letters or numbers that can be

changed or rearranged without altering the face or surface of the sign structure.

SIGN, CHANGEABLE COPY (ELECTRONIC). A sign or portion thereof that displays electronic, non-pictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or objects. Electronic changeable copy signs do not include official signs. Electronic changeable copy signs may also be dynamic display signs if the definition of dynamic display sign is met.

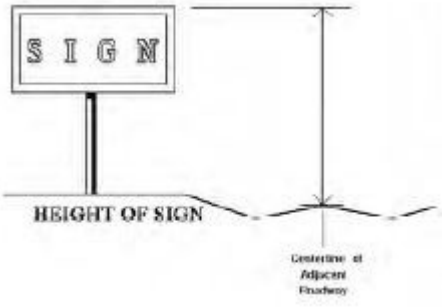
SIGN, DYNAMIC DISPLAY. Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure or any other component of the sign. This includes displays that incorporate technology or methods allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components as well as any rotating, revolving, moving, flashing, blinking or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, digital ink or any other method or technology that allows the sign face to present a series of images or displays. All dynamic displays are changeable copy signs, but not all changeable copy signs are dynamic displays.

SIGN, ELECTRONIC GRAPHIC DISPLAY. A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixalization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

SIGN, FLASHING. A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling or sparkling.

SIGN, FREESTANDING. Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

SIGN, HEIGHT OF. The height of the sign shall be computed as the vertical distance measured from the mean ground level on which the sign is placed to the top of the highest attached component of the sign.



SIGN, IDENTIFICATION. Signs in all districts which identify the business or owner, or manager, or resident, and set forth the address of the premises where the sign is located and which contain no other material.

SIGN, ILLUMINATED. Any sign which contains an element designed to emanate artificial light internally or externally.

SIGN, MARQUEE. Any building sign painted, mounted, constructed or attached in any manner, on a marquee.

SIGN, MONUMENT. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding 14 feet.

SIGN, MULTI-VISION. Any sign composed in whole or part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two or more images.

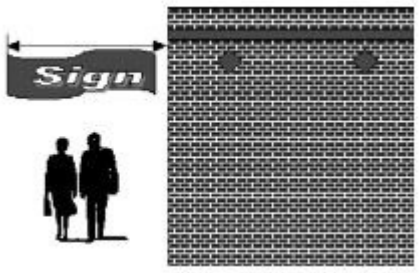
SIGN, OFF-PREMISES. A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of the Sign Ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premises sign.

SIGN, OFFICIAL. Signs of a public noncommercial nature including public notification signs, safety signs, traffic signs, direction to public facilities when erected by or on behalf of a public official or employee in the performance of official duty - See also "Public Sign".

SIGN, POLE. See PYLON SIGN.

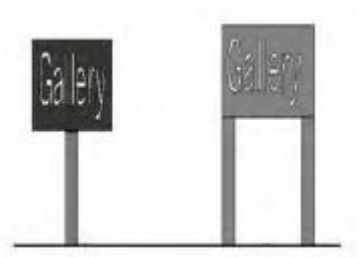
SIGN, PORTABLE. Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

SIGN, PROJECTING. Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two feet beyond the surface of such building or wall face.



SIGN, PUBLIC. Any sign posted by a governmental agency of a public, noncommercial nature, to include signs indicating scenic or historical points of interest, memorial plaques, and the like, and signs for civic interest groups within the City of Monticello when signs are erected by or on order of a public officer or employee in the performance of official duty - see also OFFICIAL SIGN.

SIGN, PYLON. Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.



SIGN, ROOF. Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

SIGN, ROOF SIGN, INTEGRAL. Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SIGN, ROTATING SIGN. A sign or portion of a sign which turns about on an axis.

SIGN, SANDWICH BOARD. A sign placed near the entrance of a business, usually on the public or private sidewalk, advertising particular aspects of the business goods or services.

SIGN, SHIMMERING. A sign which reflects an oscillating sometimes distorted visual image.

SIGN, SUSPENDED. Any building sign that is suspended from the underside of a horizontal plane surface and is connected to such surface.

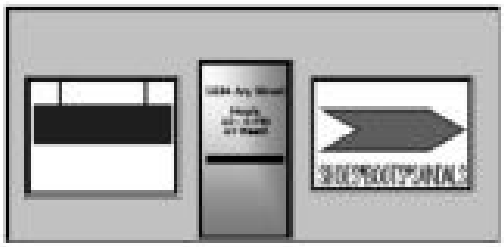
SIGN, TEMPORARY. Any sign which is erected or displayed for a specified period of time, including, but not limited to, banners, search lights, portable signs, streamers, pennants, inflatable devices.

SIGN, TIME AND TEMPERATURE. A sign that displays only current time and temperature information.

SIGN, VIDEO DISPLAY. A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames that gives the illusion of motion, including, but not limited to, the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

SIGN, WALL. Any building sign attached parallel to, but within two feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

SIGN, WINDOW. Any building sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window.



SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

SITE LANDSCAPING. Required vegetative material consisting of trees and shrubs that are placed on a development site to soften built edges and provide transitions (see § 153.060(H)).

SLOPE. Means the degree of deviation of surface from the horizontal, usually expressed in percent or degrees.

SOLAR ENERGY. Radiant energy (direct, diffuse, and reflected) received from the sun.

SOLAR ENERGY SYSTEM. A set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy. Solar energy systems are allowed only as accessory structures in any zoning district other than Planned Unit Development Districts, subject to the requirements of § 153.092.

SPECIAL EVENT. An event which plans for or can reasonably expect to attract more than 100 persons at any one time such as cultural events, musical events, celebrations, festivals, fairs, carnivals, etc.

SPECIALTY EATING ESTABLISHMENTS. Establishments selling specialty food items that normally do not constitute a full meal, including but not limited to: ice cream parlors, dessert cafes, snack shops, juice and coffee houses, and bakeries.

SPEECH, COMMERCIAL. Speech advertising a business, profession, commodity, service or entertainment.

SPEECH, NON-COMMERCIAL. Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

STABLE. A building in which horses are sheltered; may be accessory to a residential or other use or a freestanding principal use.

STABILIZATION/STABILIZED. The exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

STABLIZED. The exposed ground surface after it has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blankets, or other material that prevents erosion from occurring. Grass seeding is not considered stabilized until it has established and meets the definition of final stabilization.

START OF CONSTRUCTION. The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, excavation and filling;

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, steep slopes are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, which are not bluffs.

STORMWATER. Defined and shall have the meaning given to it by Minn. Rules 7077.0105, subp. 41(b).

STORMWATER POLLUTION PREVENTION PLAN (SWPPP). A plan for stormwater discharge that includes erosion prevention measures and sediment controls that, when implemented, will minimize soil erosion on a parcel of land and minimize off-site nonpoint pollution to the maximum extent practicable.

STORY. See § 153.010(B)(5).

STREET FRONTAGE. See § 153.010(B)(1)(f).

STRUCTURE. Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or

movable building which can be used for residential, business, commercial, or office purposes, either temporarily or permanently. STRUCTURE also includes, but is not limited to, swimming pools, tennis courts, signs, sheds, docks, and similar accessory construction.

STRUCTURE, PUBLIC. A building or edifice of any kind which is owned or rented, and operated by a federal, state, or local government agency.

SUBDIVISION. Any real estate, wherever located, improved or unimproved, which is divided or proposed to be divided for the purpose of sale or lease, including sales or leases of any timeshare interest, unit in a common interest community, or similar interest in real estate.

SURFACE WATER OR WATERS. All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, wells, reservoirs, aquifers, irrigation systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private.

SURFACE WATER-ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

SWIMMING POOL. A structure, whether above or below grade level, designed to hold water more than 24 inches deep to be used for recreational purposes

TAPROOM. A room that is ancillary to the production of beer at a production brewery where the public can purchase and /or consume only the beer produced on site.

TARP GARAGE. A portable or permanently anchored structure defined mainly by a steel or PVC frame over which a cover made from plastic, tarp, or other similar type fabrics or materials is placed.

TATTOO, TATTOOING. Any method of placing designs, letters, scrolls, figures, symbols or any other mark upon, under or in the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instruments which puncture any portion of the skin to any degree.

TELECOMMUNICATION TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

TEMPORARY EROSION PROTECTION. Short term methods employed to prevent erosion. Examples of these methods include: straw, wood fiber blanket, wood chips and erosion netting.

TEMPORARY MOBILE CELL SITE. Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, also commonly referred to as cellular on wheels (COW).

TOE OF BLUFF. The lower point of a 50-foot segment with an average slope exceeding 18%.

TOP OF BLUFF. The higher point of a 50-foot segment with an average slope exceeding 18%.

TOTAL SITE SIGNAGE. The maximum permitted combined area of all signs allowed on a specific lot.

TOWNHOUSES. A single-family dwelling unit constructed in a group of two or more attached units in which each unit extends from the foundation to the roof and having open space on at least two sides of each unit. Each single-family dwelling unit shall be considered to be a separate building. No single structure shall contain in excess of eight dwelling units, and each dwelling unit shall have separate and individual front and rear entrance.

TRASH HANDLING AND RECYCLING COLLECTION AREA. Areas designated for the accumulation, storage and pick-up of refuse and recyclable material associated with multi-family home sites, civic and institutional uses, office uses, commercial uses, and industrial uses. This definition does not include trash and recycling containers associated with single-family dwellings, or townhome units which do not utilize a communal location for trash and recycling.

TREE, CANOPY. A tree that has an expected height at maturity of 30 feet or more.

TREE, ORNAMENTAL. A small tree that has high visual impact typically grown for the beauty of its foliage and flowers rather than its functional reasons.

TREE, SPECIMEN. Any canopy tree with a DBH of 36 inches or more and any understory or ornamental tree with a DBH of ten inches or more that is not exempted as a specimen tree by this chapter.

TREE, UNDERSTORY. A tree that has an expected height at maturity of no greater than 30 feet.

TREE SAVE AREA. The area around a specimen tree that extends one linear foot around the tree's dripline.

TRASH HANDLING AND RECYCLING COLLECTION AREA. Areas containing large dumpsters or compactors used to temporarily store trash and recycling materials prior to a regularly scheduled pick up. Such facilities are typically associated with multi-family buildings of more than four units, commercial operations and industrial sites.

TRUCK OR FREIGHT TERMINAL. A use where buses, trucks, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed. This use includes warehousing and distribution which entails transfer of goods and materials from trucks to a building, where the primary use is the storage of trucks and distribution and vice versa, and may or may not involve repackaging of such goods for transfer. Such use may also entail transfer of full trailers from one truck to another.

UNDERSTORY TREE. A tree that has an expected height at maturity of no greater than 30 feet.

UPLAND. Means all lands at an elevation above the ordinary high water mark.

USE. The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized, or maintained, and shall include the performance of such activity as defined by the performance standards of this chapter.

UTILITIES - MAJOR. Major utilities shall include the following:

(1) Public infrastructure services providing regional or community-wide service that have regular employees on site during common working hours, and entail the construction of new buildings or structures such as waste treatment plants, potable water treatment plants, and solid waste facilities.

(2) Commercial wind energy conversion systems (public or private).

(3) Electrical substations.

VARIANCE. The waving by board action of the literal provisions of the zoning ordinance in instances where their strict enforcement would cause

undue hardship because of physical circumstances unique to the individual property under consideration.

VEGETATION. Means the sum total of plant life in some area, or a plant community with distinguishable characteristics.

VEGETATION, NATIVE. Any indigenous tree, shrub, ground cover or other plant adapted to the soil, climatic, and hydrographic conditions occurring on the site.

VEHICLE, EMERGENCY. For the purpose of evaluating vehicles which may be parked in residential areas, the term emergency vehicle shall include ambulances, police and sheriff's department vehicles, fire protection vehicles, emergency towing vehicles, and other law enforcement vehicles.

VEHICLE, PASSENGER. A vehicle capable of moving under its own power which is licensed and operable for use on public roadways, and shall include the following vehicles: Passenger automobiles, pick-up trucks and sport-utility vehicles of less than 9,000 pounds gross vehicle weight, pick-up trucks and sport-utility vehicles of between 9,000 pounds and 13,000 pounds with no visible commercial messages, commuter vans of a capacity up to 16 persons, and motorcycles.

VEHICLE, RECREATIONAL.

(1) A vehicle that is used primarily for recreational or vacation purposes, and which is licensed and operable for use on public roadways, whether self-propelled, carried on, or towed behind a self-propelled vehicle.

(2) Operable recreational equipment that is not licensed for used on the public roadway, but used off-road, such as all-terrain vehicles, boats, off-road motorcycles, race vehicles, snowmobiles, or similar equipment. Such equipment shall be properly licensed if the State of Minnesota provides for such licensing.

(3) Licensed, operable trailers which may be used to tow recreational equipment, whether such trailers are loaded or unloaded, including utility trailers. Where a trailer is loaded with recreational equipment, such trailer and equipment shall be considered to be one piece of equipment for the purposes of this section.

VEHICLE, LARGE COMMERCIAL. A vehicle used for commercial purposes which is a semi-tractor and/or semi-trailer, dump truck, or any other commercial vehicle that does not qualify under the definition of a "small commercial vehicle".

VEHICLE, SMALL COMMERCIAL. A vehicle used primarily for commercial purposes, including pick-up trucks and sport-utility vehicles larger than 9,000 pounds gross vehicle weight, but less than 13,000 pounds

gross vehicle weight which display a commercial business message, and all other commercial vans or trucks, regardless of commercial message which are no greater than any of the following dimensions: 22 feet in length, eight feet in height, and eight and one-half feet in width.

VEHICLE FUEL SALES.

(1) Buildings and premises where dispensing, sale, or offering for sale at retail (or in connection with a private operation where the general public is excluded from use of facilities) of motor fuels, including gasoline, diesel, natural gas, or other petroleum fuels and oils, electric charging stations of more than two such stations, hydrogen, or any other fuel intended to power motor vehicles of any sort, and where in addition, the following services may be rendered and sales made, and other similar related uses:

(a) "Automotive repair - minor" as defined by this chapter;

(b) Retail sales of packaged foods, prepared foods and other convenience goods for station customers, as accessory and incidental to principal operation; and

(c) Provision of restroom facilities, but not including showers.

(2) Uses permissible at a vehicle fuel sales establishment do not include "automobile repair - major" as defined by this chapter, major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in filling stations. Vehicle fuel sales establishments are intended for the servicing and delivery of goods to passenger vehicles and small commercial vehicles. Facilities for sales to large trucks may be included, but shall not include activities that would constitute uses most commonly found at a truck stop, such as showers, truck washes, truck parking or truck storage for more than temporary periods necessary to purchase and pay for retail goods.

VEHICLE SALES OR RENTAL. Establishments primarily engaged in the retail sale of new and used-in operating condition-automobiles, noncommercial trucks, motor homes, recreational vehicles or farm machinery; including incidental storage, maintenance, and servicing.

VEHICULAR USE AREA LANDSCAPING, INTERIOR. Vegetative material, structures (walls or fences), berms, and associated ground cover located within the interior of a parking lot, or other vehicular use area for the purposes of providing visual relief and heat abatement (see § 153.060(F)).

VEHICULAR USE AREA LANDSCAPING, PERIMETER. Vegetative material, structures (walls or fences), berms, and associated ground cover located around the perimeter of a parking lot, or other vehicular use area

when such areas are adjacent to a street right-of-way or land in a residential district or residentially developed lands, used property for the purposes of screening the vehicular use area from off-site views (see § 153.0604.1(F)).

VETERINARY FACILITIES - NEIGHBORHOOD. An establishment for licensed practitioners engaged in practicing veterinary medicine, dentistry, or surgery for small household pets only.

VETERINARY FACILITIES - RURAL. An establishment for licensed practitioners engaged in practicing veterinary medicine, dentistry, or surgery for all animals.

VISIBLE. Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

WALL. Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of 60 degrees or greater with the horizontal plane.

WASTE DISPOSAL AND INCINERATION. A use which focuses on the disposal by abandonment, dumping, burial, burning, or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or nontoxic waste material of any kind.

WATER BODY. Means a body of water (lake, pond) in a depression of land or expanded part of a river, or an enclosed basin that holds water and surrounded by land.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

WATERCOURSE. Means a channel or depression through which water flows such as rivers, streams, or creeks and may flow year-round or intermittently.

WATERSHED. The area drained by the natural and artificial drainage system bounded peripherally by a bridge or stretch of high land dividing drainage areas.

WATERWAY. A channel that directs surface runoff to a watercourse or to the public storm drain.

WAYSIDE STAND. A temporary structure or vehicle used for the seasonal retail sale of agricultural goods produced by the operator of the wayside

stand; the stand being clearly a secondary use of the premises which does not change the character thereof.

WETLANDS.

(1) Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this chapter, wetlands must:

(a) Have a predominance of hydric soils;

(b) Be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(c) Under normal circumstances, support a prevalence of hydrophytic vegetation.

(2) "A wetland" or "the wetland" means a distinct hydrologic feature with characteristics of item A, surrounded by non-wetland and including all contiguous wetland types, except those connected solely by riverine wetlands. "Wetland area" means a portion of a wetland or the wetland.

(3) Wetlands do include public waters wetlands unless reclassified as shoreland by the commissioner under M.S. § 103G.201, as it may be amended from time to time.

(4) The wetland size is the area within its boundary. The boundary must be determined according to the United States Army Corps of Engineers Wetland Delineation Manual (January 1987). The wetland type must be determined according to Wetlands of the United States, (1971 edition). Both documents are incorporated by reference under part 8420.0112, items A and B. The local government unit may seek the advice of the technical evaluation panel as to the wetland size and type.

WETLANDS, EXCEPTIONAL QUALITY. Exceptional quality wetlands contain an abundance of different plant species with dominance evenly spread among several species. Such wetlands may support some rare or unusual plant species. Invasive or exotic plant species are either absent or limited to small areas where some disturbance has occurred. This higher level of plant species variety generally provides high wildlife habitat value and may also support rare wildlife species. The shorelines of exceptional quality wetlands are natural and unaffected by erosion. These wetlands exhibit no evidence of significant man induced water level fluctuation. Exceptional quality wetlands provide excellent water quality protection, high aesthetic quality, and provide excellent opportunities for educational and scientific activities within the community.

WETLANDS, HIGH QUALITY. High quality wetlands are still generally in their natural state and tend to show less evidence of adverse effects of surrounding land uses. Exotic and invasive plant species may be present and species dominance may not be evenly distributed among several species, however, a minimum of 20 different species can be found within the basin. There tends to be little evidence of water level fluctuation due to storms and their shorelines are stable with little evidence of erosion. The combination of these factors result in these wetlands being judged as providing a greater level of water quality protection and significantly better wildlife habitat. They show little if any evidence of human influences and their greater levels of species variety, wildlife habitat and ecological stability results in higher aesthetic quality. These characteristics also offer opportunities for educational or scientific value to the community.

WETLANDS, LOW QUALITY. Wetlands included in this category have been substantially altered by agricultural or urban development that caused over nutrification, soil erosion, sedimentation and water quality degradation. As a result of these factors, these wetlands exhibit low levels of plant species and a related reduction in the quality of wildlife habitat. These wetlands may also tend to exhibit extreme water level fluctuations in response to storms and show evidence of shoreline erosion. While these wetlands do provide for water quality and serve an important role in protecting water quality downstream, the combination of these characteristics cause these wetlands to provide low levels of water quality protection and to have poor aesthetic quality. They often exhibit evidence of significant human influences and they are deemed to be of little educational or scientific value to the community.

WETLANDS, MEDIUM QUALITY. Medium quality wetlands have a slightly higher number of plant species present than low quality wetlands, often with small pockets of indigenous species within larger areas dominated by invasive or exotic species. Their relatively greater species variety results in slightly better wildlife habitat. They exhibit evidence of relatively less fluctuation in water level in response to storms and less evidence of shoreline erosion. As a result of these characteristics, these wetlands provide somewhat better water quality protection. They also exhibit relatively less evidence of human influences and therefore, tend to be of a higher aesthetic quality. These wetlands are still judged to be of limited educational or scientific value to the community.

WETLAND BUFFER. An area of non-disturbed ground cover abutting a wetland left undisturbed to filter sediment, materials, and chemicals.

WHOLESALE SALES. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers.

Wholesale establishment does not include contractor's materials or office or retail sales of business supplies/office equipment.

WHOLESALER. Any person engaged in the business of selling alcoholic beverages to retail dealers.

WILDLIFE. All free living animals.

WIND ENERGY CONVERSION SYSTEM (WECS). A wind-driven machine that converts wind energy into electrical power for the primary purpose of resale or off-site use.

WINE. The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, sherry and sake, in each instance containing not less than one half of 1% nor more than 24% alcohol by volume for nonindustrial use.

WRECKER AND TOWING SERVICE. An establishment operated for the purpose of temporary storage onsite of no more than nine wrecked or inoperable vehicles for a period no longer than 90 days. If an establishment has ten or more inoperable vehicles located on-site, stores inoperable vehicles for more than 90 days, stacks vehicles top to bottom, or portions of the vehicles are dismantled or removed for sale, it shall be considered a junkyard.

YARD. See § 153.010(B)(3)(a). YARD related definitions (e.g. front yard, corner yard, side yard, etc) see section § 153.010(B)(3)(a)7.

(Ord. 780, passed 7-25-2022; Ord. 791, passed 11-14-2022; Ord. 797, passed 2-13-2023; Ord. 799, passed 2-27-2023)

APPLICATION REVIEWS AND PROCEDURES

§ 153.025 PURPOSE.

The purpose of this chapter is to identify all decision-making bodies responsible for the review of applications, the common review requirements for all applications, and the specific requirements and review procedures for various application types.

§ 153.026 SUMMARY OF DECISION-MAKING AND REVIEW BODIES.

(A) Summary table of decision-making and review bodies.

(1) Table 2-1 summarizes the general review and decision-making responsibilities of the city entities that have roles in the procedures set forth in this chapter. Other duties and responsibilities of the entities are set forth in subsequent sections of this chapter or elsewhere within the Monticello City Code. The city may require any and all review bodies to examine specific applications as deemed appropriate by the Community Development Department or City Council.

(2) The city may request other boards, commissions, government agencies, and non-government agencies to review some applications as deemed appropriate prior to any final ruling on such applications.

TABLE 2-1: SUMMARY OF THE ROLES OF DECISION-MAKING BODIES

H=Hearing (public hearing required)
A=Appeal
D=Decision (responsible for final decision)
R=Recommendation (responsible for review and a recommendation)
* = Will take action only if requested for a specific application or circumstance

Procedure

Section

Community Development Department

IEDC &

EDA

[1]

Park & Recreation Commission

Planning Commission

City Council

Board of Adjustment and Appeals

TABLE 2-1: SUMMARY OF THE ROLES OF DECISION-MAKING BODIES

H=Hearing (public hearing required)
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Procedure

Section

Community Development Department

IEDC &

EDA

[1]

Park & Recreation Commission

Planning Commission

City Council

Board of Adjustment and Appeals

Comp. Plan Amendment

§ 153.028(A)

R

*

H-R

D

Zoning Map/Text Amendment

§ 153.028(B)

R

*

H-R

D

Variance

§ 153.028(C)

R

A

H-D

Conditional Use Permit

§ 153.028(D)

R

*

H-R

D

Interim Use Permit

§ 153.028(E)

R

*

H-R

D

Site Plan Review

§ 153.028(F)

D

*CCD Only

*

A

Joint Concept Review

*CCD & PCD Only

*CCD & PCD Only

Administrative Appeal

§ 153.028(H)

R

A

D

Building Permits

§ 153.028(I)

D

A

Certificates of Occupancy

§ 153.028(J)

D

A

Sign Permit

§ 153.028(K)

D

A

Temporary Use Permit

§ 153.028(L)

D

A

Home Occupation Permit

§ 153.028(M)

D/R

H-CUP

D- CUP

A

Grading Permit

§ 153.028(N)

D

A

Driveway Permit

§ 153.028(O)

D

A

Planned Unit Development

§ 153.028(O)

R

H-R

D

Subdivisions

City Code

R

R

H-R

D

A

[1] Industrial & Economic Development Committee (IEDC) and the Economic Development Authority (EDA)

(B) City Council. In addition to any other authority granted to the City Council by the City Code (Chapter 30) or state law, the City Council shall have the following powers and duties related to this chapter:

(1) To enact amendments to the Comprehensive Plan, the text of this chapter, and Zoning Map.

(2) To hear, review, and make decisions on all Land Use Applications submitted to the city.

(C) Planning Commission.

(1) Establishment, membership, rules and procedures. The establishment, membership, rules and procedures for the Planning Commission are established in §§ 32.001 through 32.012.

(2) Powers and duties. In addition to any other authority granted to the Planning Commission by the City Code, the Planning Commission shall have the following additional powers and duties related to this chapter:

(a) Comprehensive Plan Amendments, Zoning Map Amendments, and Zoning Text Amendments.

1. To initiate amendments to the Comprehensive Plan, the text of this chapter, the Official Zoning Map (rezoning of property), or other sections of the Monticello City Code; and

2. To hear, review, and make recommendations to the City Council on applications for amendments to the Comprehensive Plan, the text of this chapter or zoning map amendments.

(b) Land use applications. To hear, review, and make recommendations on the following Land Use Applications before the city:

1. Comprehensive Plan amendment;

2. Zoning Map amendment;

3. Zoning chapter text amendment;

4. Conditional use permit;

5. Interim use permit; and

6. Planned unit development.

(c) Other. To exercise such other powers, and perform such other duties, as are reasonable or necessary as provided by law.

(D) Parks, Arts & Recreation Commission.

(1) Establishment, membership, rules and procedures. The establishment, membership, rules and procedures for the Parks, Arts & Recreation Commission are established in §§ 32.045 through 32.054.

(2) Powers and duties. In addition to any other authority granted to the Parks, Arts & Recreation Commission by the City Code, the Parks, Arts & Recreation Commission shall have the responsibility to review and make recommendations on park needs generated by new development.

(E) Board of Adjustment and Appeals.

(1) Establishment. The Board of Adjustment and Appeals is hereby established.

(2) Membership. The Planning Commission shall act as a Board of Adjustment and Appeals.

(3) Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.

(4) Procedures. Proceedings of the Board of Adjustment and Appeals by the Planning Commission shall be undertaken as a component of scheduled Planning Commission meetings. It shall not be necessary for the Planning Commission to adjourn and reconvene as the Board of Adjustment and Appeals to undertake such proceedings.

(5) Powers and duties. The Board of Adjustment and Appeals shall have the following powers and duties related to this chapter:

(a) To consider, hear, review and make decision on applications for variances; and

(b) To hear appeals of administrative discretionary decisions made by the Community Development Department or other administrative official in carrying out or enforcing any provision of this chapter.

(F) Industrial and Economic Development Committee.

(1) Establishment, membership, rules and procedures. The establishment, membership, rules and procedures for the Industrial and Economic Development Committee are established in §§ 32.075 through 32.085.

(2) Powers and duties. In addition to any other authority granted to the Industrial and Economic Development Committee by the City Code, the Industrial and Economic Development Committee shall have the responsibility to review and make recommendations on commercial and industrial land use applications when requested by the Community Development Department.

(G) Economic Development Authority (EDA).

(1) Establishment, membership, rules and procedures. The establishment, membership, rules and procedures for the Economic Development Authority are established in § 32.100.

(2) Powers and duties. In addition to any other authority granted to the Economic Development Authority by the City Code, the Economic Development Authority shall have the responsibility to review and make recommendations on commercial and industrial land use applications when requested by the Community Development Department.

(H) Community Development Department.

(1) General authorization. The Community Development Department, under the supervision of the City Administrator, shall administer the provisions of this chapter as provided in this section.

(2) Powers and duties. In addition to the jurisdiction, authority, and duties that may be conferred upon the Community Development Department by other provisions of this chapter or the City Code, the Community Development Department shall have the following jurisdiction, powers, and duties under this chapter:

(a) Interpretations. Render interpretations of all provisions of this chapter, including, but not limited to, interpretations of the text of this chapter; interpretation of the zoning map, and interpretation of the comprehensive plan.

(b) Enforcement. Enforce the provisions of this chapter.

(c) Administer ordinance. Review, approve, conditionally approve or deny applications for building permits and other administratively reviewed permits or applications as may be required by this chapter.

(d) Application tracking and recommendations. Review, monitor, and provide recommendations on applications requiring approval by the City Council or other governmental bodies as directed by the City Administrator.

(e) Provide expertise and technical assistance. Provide expertise and technical assistance to the City Council and the city’s commissions, boards, and other bodies.

(f) Maintain the zoning map. Update the city’s official zoning map as it may be amended from time to time.

(g) Recommendations on procedures. Review and provide comments or make recommendations to the appropriate decision-making and review body on the various procedures, requirements or appeals established by this chapter.

(Ord. 799, passed 2-27-2023)

§ 153.027 COMMON REVIEW PROCEDURES AND REQUIREMENTS.

(A) Applicability. The requirements of § 153.027 shall apply to all applications subject to review under this chapter unless otherwise stated.

(B) Authority to file applications.

(1) Unless otherwise specified in this chapter, applications may be initiated by:

(a) The owner of the property that is the subject of the application;

(b) The owner's authorized agent; or

(c) The city, including the Community Development Department as authorized by this chapter.

(2) When an authorized agent files an application under this chapter on behalf of a property owner, the agent shall provide a signed authorization from the fee title property owner stating that the property owner agrees to be bound by all decisions, agreements, and related conditions agreed to by such agent.

(3) For all applications involving multiple owners, contract purchasers, etc; all such persons shall sign the application.

(C) Application submission schedule. The schedule for the submission of applications in relation to scheduled meetings of the decision-making bodies shall be maintained by the Community Development Department and made available to the public.

(D) Application contents.

(1) Organization and copies. The organization of applications and the number of copies of required information to be submitted shall be determined by the Community Development Department.

(2) General submittal requirements. All applications shall include:

(a) A completed City of Monticello application form;

(b) Verification of authority to file applications per the requirements of § 153.027(B);

(c) Supporting title information establishing ownership interests in the property (e.g. a title commitment and/or signature of fee title property owner);

(d) All submittal requirements outlined in this chapter for the specific application type;

(e) Electronic copies of all written narratives and plan sets required by the Community Development Department as part of the specific application;

(f) The city may require applicants to submit such technical studies as may be necessary to enable the city to evaluate the application. Such studies may include, but not be limited to, traffic studies, engineering studies, environmental impact assessments, and economic impact reports. The costs of such studies shall be borne by the applicant with the persons or firms preparing the study approved by the city.

(3) Submission of fees. Applications shall be accompanied by a fee as established by the City of Monticello pursuant to the most recently adopted City of Monticello Fee Schedule.

(E) Application acceptance.

(1) Complete application required. The review and consideration of an application submitted under this section shall only occur if such application includes all items that are required in support of the application and is deemed complete by the Community Development Department (see M.S. § 15.99(3)(a), as it may be amended from time to time).

(2) Waiver of application requirements. Except for the required application form and the associated fee, the Community Development Department may waive individual submittal requirements and deem an application complete for review if it is determined that such information will serve no purpose during the review process. However, it is the responsibility of the applicant to supply all information required by this chapter, and a waiver issued by the Community Development Department shall not eliminate the need to provide such information at a later time if it is ultimately deemed necessary to adequately review the application. During the review process, failure of an applicant to supply information in a timely manner may result in denial of the application due to the city's inability to comply with state mandated time deadlines.

(F) Simultaneous processing of applications. Whenever two or more forms of review and approval are required under this chapter (e.g., a proposed rezoning and subdivision application), the applications for those

approvals may, at the discretion of the Community Development Department, be processed simultaneously, so long as all applicable requirements are satisfied for all applications.

(G) Pre-application conferences.

(1) All prospective applicants are encouraged to speak with a member of the Community Development Department prior to submitting an application in order to review the proposal and to determine the specific materials to be submitted with the future application.

(2) Discussions that occur during a pre-application conference are not binding on the city and do not constitute official assurances, representations or approvals by the city or its officials on any aspects of the plan or application discussed.

(H) Fees.

(1) Determination of fees. Fees required to accompany applications submitted under this chapter shall be in accordance with the approved fee schedule adopted yearly by the City Council.

(2) Fees to be paid. No application shall be accepted until all applicable application fees have been paid.

(3) Refund of application fee. Application fees are not administratively refundable except when the Community Development Department determines that an application was withdrawn prior to any consideration or review of the application.

(4) Escrow. Application fees may also require payment of an escrow in favor of the city. The required escrow amount shall be in accordance with the approved fee schedule adopted yearly by the City Council.

(5) Staff and/or consultant fee. In order to defray the additional cost of processing applications submitted under this chapter, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicants request and all materials for said request.

(a) "Materials" shall include, but not be limited to, maps, graphs, charts, drawings, etc., and all printing and reproduction of same.

(b) "Staff and/or consulting time" shall include any time spent in either researching for or actual production of materials.

(c) The hourly rate for "staff and/or consulting time" shall be in accordance with the approved fee schedule adopted yearly by the City Council.

(I) Public notification. Applications requiring public notification shall be noticed in compliance with the following provisions.

(1) Content. Notices for public hearings, whether by publication or mailed notice, shall contain at a minimum:

(a) A bold title referring to the content of the notice.

(b) Identification of the address or location of the property or properties subject to the application.

(c) Date, time, and place of the public hearing.

(d) Nature and scope of the application.

(e) Where to view the application.

(f) Where the public may be heard.

(g) Provision for written comments. The notice will describe where written comments will be received prior to the public hearing.

(2) Timing of the notice. Unless otherwise expressly provided or required by law, all statutorily or code required notices shall be postmarked or published at least ten days prior to the hearing or meeting at which the application will be considered.

(3) Responsibilities.

(a) Published notice. When the provisions of this chapter require that notice be published, the Community Development Department shall be responsible for preparing the content of the notice and publishing the notice in the city's official newspaper. The content and form of the published notice shall be consistent with the requirements of § 153.027(I)(1) and state law.

(b) Written (mailed) notice. When the provisions of this chapter require that written or mailed notice be provided, the Community Development Department shall be responsible for preparing and mailing the written notice per the requirements outlined in Table 2-2.

TABLE 2-2: WRITTEN NOTIFICATION REQUIREMENTS

Application Type

Written Notice Provided To

TABLE 2-2: WRITTEN NOTIFICATION REQUIREMENTS

Application Type

Written Notice Provided To

Comprehensive Plan Amendment

- For amendments which involve five acres of land or less, written notice shall be provided to all property owners within 350 feet

- For amendments which involve more than five acres of land, notice need only be published within the city's official newspaper

Zoning Map Amendment

All property owners within 350 feet

Variance

All property owners within 350 feet

Conditional Use Permit

All property owners within 350 feet

Interim Use Permit (new and renewal)

All property owners within 350 feet

CUP/IUP Revocation

Permittee/landowner only

Planned Unit Developments

All property owners within 350 feet

(4) Notice construction.

(a) The Community Development Department may use property tax records to determine the names and addresses of affected property owners. A copy of the notice and a list of the owners and addresses to which the notice was sent must be attested to by the Community Development Department and must be made a part of the records of the proceedings.

(b) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a good faith attempt has been made to comply with applicable notice requirements. Minor defects in notice are errors that do not affect the substance of the notice (e.g., errors in a legal description, typographical or grammatical errors, errors of actual acreage, etc). Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the notification requirements and information specifying the time, date, and place of a hearing shall be strictly construed.

(c) When the records of the city document the publication, mailing, and posting of notices as required by this division, it shall be presumed that notice of a public hearing was given as required by this division.

(J) Continuation of public hearings. A public hearing for which proper notice was given may be continued during the course of such hearing to a later date without again complying with the written and publication notice requirements of this chapter, provided that the continuance date is announced at the meeting.

(K) Withdrawal of an application. A request for withdrawal of an application shall be submitted in writing with a signature to the Community Development Department.

(L) Required action deadline. All applications for land use approvals shall be approved or denied within timeframes required by applicable laws, regulation and the provisions of this chapter in effect on the date the application was submitted.

(M) Environmental review.

(1) No development project shall be approved prior to review by the Community Development Department to determine the necessity for completion of an Environmental Assessment worksheet (EAW) or Environmental Impact Statement (EIS). Procedures for EAWs and EISs are set forth in the Minnesota Environmental Quality Review Board (EQB) regulations for the Environmental Review Program authorized by M.S. §§ 116D.04 and 116D.045, as the may be amended from time to time, and specified in Minn. Rules Parts 4410.0200 to 44410.7800.

(2) Environmental reviews (EAWs and EISs) shall be conducted as early as practical in the processing of a development project. No decision on granting of a permit or other approval required may be issued until the EAW/EIS process is completed.

(N) Reconsideration of land use approval applications. No application for land use approval which has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six months from the date of City Council action on the application, except where there is substantial new evidence or proof of a change in conditions with respect to such application. Before any such reconsideration, the city may require the submission of the appropriate application fee and the application may be considered as a new application.

§ 153.028 SPECIFIC REVIEW PROCEDURES AND REQUIREMENTS.

(A) Comprehensive Plan amendments.

(1) Purpose and scope. This section sets out the procedure to follow when considering a change to the Comprehensive Plan.

(2) Initiation of proceedings. Proceedings for the amendment of the Comprehensive Plan shall be initiated by one of the following:

(a) An owner of property or an authorized representative of an owner pursuant to § 153.027(B), Authority to File Applications;

(b) Recommendation of the Planning Commission;

(c) Recommendation of the Community Development Department; or

(d) Action of the City Council.

(3) Application.

(a) All applications to amend the Comprehensive Plan shall be in accordance with § 153.027, Common Review Procedures & Requirements.

(b) In addition to the common review requirements, applications for Comprehensive Plan amendments shall also include the following:

1. The name of the applicant;

2. A narrative explaining the requested change and the reasons why the Comprehensive Plan should be amended per the request;

3. The legal description of all real property proposed for change (if applicable);

4. The existing and proposed land use and zoning designations for all properties proposed to change (if applicable);

5. A map of the properties to be modified to a different land use category, showing the addresses and land uses for adjacent properties (if applicable);

6. The proposed text and/or maps to be added, amended, or deleted from the Comprehensive Plan along with documentation as to the location of the text changes in the Comprehensive Plan, if applicable.

(4) Review.

(a) Planning Commission. Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with § 153.027(I). Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(b) City Council. The City Council may hold a public hearing on the amendment if they deem such necessary or it is deemed necessary by the Community Development Department. After consideration of the Planning Commission recommendation and/or hearing, if applicable, the City Council may adopt the amendment or any part thereof in such form as it deems advisable. Approval of an amendment shall require the approval of two-thirds of all the members of the City Council, except as may be exempted by state statute.

(5) Approval criteria. Recommendations and decisions on Comprehensive Plan amendments shall be based on consideration of the following criteria:

(a) Whether the proposed amendment corrects an error or addresses the need resulting from some changing condition, trend, or fact arising since the adoption of the Comprehensive Plan;

(b) Whether the proposed amendment is consistent with the guiding principles of the Comprehensive Plan;

(c) The extent to which the proposed amendment addresses a demonstrated community need;

(d) Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public;

(e) The impacts on the natural and built environments, including air, water, noise, stormwater management, wildlife habitat, water quality, vegetation, drainage, streets, and other engineering design or environmental factors;

(f) Whether the proposed amendment is compatible with existing and proposed uses surrounding the subject property; whether the proposed design and land uses are appropriate for the land; and whether the proposed amendment will maintain or improve compatibility among uses and ensure efficient development within the city;

(g) Whether the proposed amendment will result in a logical, orderly and predictable development pattern; and

(h) Whether the proposed amendment is consistent with the purpose of this chapter.

(B) Zoning ordinance text and zoning map amendments.

(1) Purpose and scope. This section sets out the procedures to be followed in reviewing and considering a text change to this chapter or an amendment to the zoning map with the exception of a map amendment to a planned unit development, which shall be subject to the procedures in § 153.028(O), Planned Unit Development.

(2) Initiation of proceedings. Proceedings for the amendment of the text of this chapter or the zoning map shall be initiated by one of the following:

(a) An owner of property or an authorized representative of an owner pursuant to § 153.027(B), Authority to File Applications;

(b) Action of the Planning Commission; or

(c) Application by the Community Development Department; or

(d) Action of the City Council.

(3) Application.

(a) All applications to amend the text of this chapter or the zoning map shall be in accordance with § 153.027, Common Review Procedures and Requirements.

(b) In addition to the common review requirements, applications for changes to the text of this chapter or the Zoning Map shall also include the following:

1. The name of the applicant;

2. A narrative explaining the requested modification and the reasons why the changes are supported by the Comprehensive Plan;

3. The legal description of all real property proposed for change, if applicable;

4. The existing and proposed land use and zoning designations for all properties proposed for change, if applicable;

5. A map of the properties to be modified to a different zoning designation, showing the addresses and zoning designations for the subject properties and the adjacent properties, if applicable;

6. The location of the proposed text to be added, amended, or deleted in this chapter, if applicable.

(4) Review.

(a) Planning Commission. Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with § 153.027(I). Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(b) City Council. The City Council may hold a public hearing on the amendment if deemed necessary by the Community Development Department. After consideration of the Planning Commission recommendation and/or hearing, if applicable, the City Council may adopt the amendment or any part thereof in such form as it deems advisable.

Approval of an amendment shall require a majority vote of all members of the City Council except for amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial, which will require the approval of two-thirds of all the members of the City Council.

(5) Approval criteria. Recommendations and decisions on zoning amendments shall be based on consideration of the following criteria:

(a) Whether the proposed amendment corrects an error in the original text or map; or

(b) Whether the proposed amendment addresses needs arising from a changing condition, trend, or fact affecting the subject property and surrounding area.

(c) Whether the proposed amendment is consistent with achieving the goals and objectives outlined in the comprehensive plan.

(C) Variances.

(1) Purpose and scope. The variance process is intended to provide limited relief from the strict requirements of this chapter in those cases where strict application of a particular requirement will create practical difficulties due to circumstances unique to the individual property under consideration. It is not intended that variances be granted to allow a use not permitted by the underlying zoning district, nor to merely remove inconveniences or financial burdens that the requirements of this chapter may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant’s act or omission.

(2) Initiation of proceedings. Variances shall be initiated by an owner of property or an authorized representative of an owner pursuant to § 153.027(B), Authority to File Applications.

(3) Application.

(a) All applications for a variance shall be in accordance with § 153.027, Common Review Procedures and Requirements.

(b) In addition to the common review requirements, applications for a variance shall also include the following:

1. A written narrative demonstrating that the criteria for a variance as set out in § 153.028(C)(4)(a) have been met.

2. A site plan of the property showing all information necessary to allow the city to determine conformance with all zoning provisions, and to calculate the specific variance being requested. Information shall include but not be limited to:

a. Property and structure dimensions;

b. Setback dimensions/measurements;

c. Parking and access locations and dimensions;

3. If deemed necessary by the Community Development Department, a certificate of survey may be required to be submitted with the application in addition to a site plan. The certificate of survey must detail the information listed in § 153.028(C)(3)(b)2. above.

(4) Review.

(a) Variance criteria. Approval of a variance may only be made upon a determination that practical difficulties will result based on all of the following criteria (see M.S. § 462.357, subd. 6, clause 2, as it may be amended from time to time):

1. The property in question cannot be put to a reasonable use if the provisions of this chapter are strictly applied.

2. The circumstances rendering the property unusable are unique to the property.

3. The circumstances rendering the property unusable were not created by the owner thereof.

4. A variance, if granted, will not alter the essential character of the locality.

5. Economic considerations alone shall not constitute a sufficient basis for a Variance if reasonable use for the property exists under the terms of the regulation.

(b) Board of Adjustment and Appeals. Before any variance is approved, the Board of Adjustment and Appeals shall hold at least one public hearing after proper notice has been issued in accordance with §

153.027(I). Following the hearing, the Board of Adjustment and Appeals shall consider the request(s) against the variance review criteria outlined in § 153.028(C)(4)(a) and take action on the request(s). In approving a variance, the Board of Adjustment and Appeals may impose conditions on the approval as are deemed appropriate to ensure compliance with the approval and to protect adjacent properties. Denial of any request shall be accompanied by findings of fact at to how the request did not meet one or more of the review criteria.

(c) Appeal of variance decision. Decisions of the Board of Adjustment and Appeals are final unless the applicant or an affected party, including any member of the City Council, files a written appeal outlining the basis for the appeal within ten business days of the decision. Variance appeals shall be reviewed by the City Council as outlined in § 153.028(H)(3)(c) subject to the review criteria in § 153.028(H)(4).

(5) Effect of a variance.

(a) The issuance of a variance shall authorize only the particular variation that is approved by either the Board of Adjustment and Appeals or City Council.

(b) A variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(6) Subsequent development. Development authorized by the variance shall not be carried out until the applicant has secured all other approvals required by this chapter or any other applicable chapters or regulations. The granting of a variance does not constitute, imply, or guarantee the granting of any other such required approval (i.e.: a building permit).

(7) Time limit.

(a) Unless otherwise specified in the variance, if a building permit has not been secured within one year of the date of the variance approval, the variance shall become invalid. Permitted timeframes do not change with successive owners.

(b) Upon written request, one extension of one year may be granted by the Community Development Department if the applicant can show good cause.

(8) Amendment. A variance may be amended, extended, or modified only in accordance with the procedures and standards established for originally securing the variance. A request for a change in the conditions of approval of a variance shall be considered an amendment and subject to the full review procedure set forth in this division. An additional application fee may be required before consideration of the amendment request.

(D) Conditional use permits.

(1) Purpose and scope. The conditional use permit process is intended to provide the city with an opportunity to review a proposed use in order to establish reasonable conditions necessary to ensure compatibility between the proposed location and use and surrounding properties. Approval of a conditional use at a location within a zoning classification does not mean the same conditional use can be conducted on any other parcel with the same specific zoning classification. Every application for a CUP will be individually reviewed on its own merits, and the facts surrounding the subject property will determine the appropriateness of the proposed use.

CONDITIONAL USE PERMIT
Complete Application
Community Development Department Review & Recommendation
Commercial & Industrial Requests
Industrial / Economic Dev. Commission Review & Rec.
PUBLIC HEARING & Planning Commission Recommendation
City Council DECISION

(2) Initiation of proceedings. A request for a conditional use permit shall be initiated by an owner of property or an authorized representative of an owner pursuant to § 153.027(B), Authority to File Applications.

(3) Application.

(a) All applications for a conditional use permit shall be in accordance with § 153.027, Common Review Requirements.

(b) In addition to general review requirements, applications for a conditional use permit shall also include the following:

1. A written narrative which includes:

a. A description of the proposed conditional use, how it will function on the property, hours of operation (if applicable), and any other information necessary to fully describe the request; and

b. An explanation of how the proposed conditional use will meet each of the criteria set forth in § 153.028(D)(4)(a), as well as any additional criteria that may apply for the specific use as listed in §§ 153.090 through 153.093.

2. A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the conditional use is proposed;

3. Development plans for the proposed use showing all information deemed necessary by the Community Development Department to ensure that the city can determine whether the proposed use will conform to all City Code standards. Such information may include, but shall not be limited to, the following:

a. Site plan drawn to scale showing parcel and existing topography;

b. Location and building setbacks per this chapter of all existing and proposed buildings and the size of each (including square footage);

c. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks, including dimension of each;

d. Natural features such as woodlands, wetlands, shorelines, etc;

e. Landscaping and screening plans, including species and size of trees and shrubs proposed;

f. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;

g. Type of business or activity and proposed number of employees;

h. Proposed floor plan and elevations of any building with use indicated;

i. Proposed outdoor storage spaces, including dimensions and detail of all intended storage types (if applicable);

j. Signage plan.

4. If deemed necessary by the Community Development Department, a certificate of survey may be required to be submitted with the application in addition to or in lieu of a site plan. The certificate of survey shall detail the following information:

a. All existing and proposed structures;

b. Signed by a registered land surveyor;

c. Current (within last six months);

d. Topographic survey and contours of all surface features including drainage ways, wetlands, etc.;

e. Public utilities including pipe size, material type, depths;

f. Private utilities;

g. Legal description; and

h. Easements of record.

5. Color profile elevation drawings of all sides of new structures to illustrate the proposed visual appearance of new construction. Any landscaping shown on elevations must be shown as it appears in size and height at the time of planting. The elevations shall indicate the visual location and size of all exterior utility and mechanical systems, including HVAC, meters, and powerlines.

6. Any other information that may be reasonably required by the city to evaluate the application.

(4) Review.

(a) Conditional use permit criteria. Approval of a conditional use permit application requires that the city find that conditions can be established to ensure that all of the following criteria will always be met:

1. The conditional use will not substantially diminish or impair property values within the immediate vicinity of the subject property;

2. The conditional use will not be detrimental to the health, safety, morals, or welfare of persons residing or working near the use;

3. The conditional use will not impede the normal and orderly development of surrounding property for permitted uses predominant in the area;

4. The conditional use will not pose an undue burden on public utilities or roads, and adequate sanitary facilities are provided;

5. The conditional use can provide adequate parking and loading spaces, and all storage on the site can be done in conformance with city code requirements;

6. The conditional use will not result in any nuisance including but not limited to odor, noise, or sight pollution;

7. The conditional use will not unnecessarily impact natural features such as woodlands, wetlands, and shorelines; and all erosion will be properly controlled;

8. The conditional use will adhere to any applicable additional criteria outlined in §§ 153.090 through 153.093 for the proposed use.

(b) Planning Commission. Before any conditional use permit is considered, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with § 153.027(I). Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general conditional use permit review criteria outlined in § 153.028(D)(4)(a) and any specific criteria outlined for the specific use in §§ 153.090 through 153.093. Recommendations for approval may include such conditions as are deemed necessary to ensure compliance with each of the conditional use permit review criteria. Denial recommendations shall be supported by findings of fact as to why the permit request was denied. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(c) Industrial and Economic Development Committee. Conditional use permits in commercial or industrial areas may, at the discretion of the Community Development Department, be placed before the Industrial and Economic Development Committee for review and recommendation.

(d) City Council. Upon receiving the recommendations of the Planning Commission, the City Council shall consider the request against the conditional use permit review criteria outlined in § 153.028(D)(4)(a) and take action on the request(s). In approving a conditional use permit, the

City Council may impose conditions on the approval as are deemed appropriate to ensure compliance with each of the conditional use permit review criteria. Denial of any request shall be accompanied by findings of fact as to why the requested permit can not be approved.

(5) Reasonable conditions. In approving a CUP, the city may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the conditional use permit review criteria.

(6) Effect of a conditional use permit approval.

(a) The issuance of a conditional use permit shall authorize only the improvements approved by the City Council.

(b) A conditional use permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(7) Subsequent development. Development authorized by the conditional use permit shall not be carried out until the applicant has secured all other approvals required by this chapter or any other applicable ordinances or regulations. The granting of a conditional use permit does not constitute, imply, or guarantee the granting of any other such required approval (i.e. a building permit).

(8) Time limit.

(a) Unless otherwise specified in the conditional use permit, the operation of the use and/or issuance of building permits for permitted structures shall begin within one year of the date of the conditional use permit approval. Failure to do so will invalidate the conditional use permit. Permitted timeframes do not change with successive owners.

(b) If the operation of the use and/or issuance of building permits has not commenced within one year of the date of approval, the applicant may petition for an extension of time in which to commence the work that has been granted by the conditional use permit. Such extension shall be requested in writing and filed with the Community Development Department at least 30 days before the expiration of the one-year period. The request for extension shall state facts supporting good cause for extension of the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(c) If a use operating pursuant to an approved conditional use permit is discontinued for a period of at least one year, any further use of the property shall conform to the requirements of this chapter. A discontinued conditional use shall not begin operations again without first obtaining approval of a new conditional use permit.

(9) Revocation. In the event that any of the conditions set forth in the permit are violated, the City Council shall have the authority to revoke the conditional use permit. Before the revocation is considered, the City Council shall hold at least one public hearing after proper written notice has been issued in accordance with § 153.027(I). Following the hearing and subsequent discussion, the City Council may revoke the CUP by adopting findings of fact showing there has not been substantial compliance with the required conditions.

(10) Amendments. A conditional use permit may be amended or modified only in accordance with the procedures and standards established when originally securing the conditional use permit. A request for a change in the conditions of approval of a conditional use permit shall be considered an amendment and subject to the full review procedure set forth in this division. An additional application fee may be required before the consideration of the amendment request.

(E) Interim use permits.

(1) Purpose and scope. The purpose and intent of allowing interim uses is:

(a) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.

(b) To allow a use that is presently judged acceptable by the City Council but that, with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.

(c) To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

INTERIM
USE PERMIT
Complete Application
Community Development Department Review & Recommendation
Commercial & Industrial Requests
Industrial / Economic Dev. Commission Review & Rec.
PUBLIC HEARING / Planning Commission Recommendation
City Council DECISION

(2) Initiation of proceedings. A request for an interim use permit shall be initiated by an owner of property or an authorized representative of an owner pursuant to § 153.027(B), Authority to File Applications.

(3) Application.

(a) All applications for an interim use permit shall be in accordance with § 153.027, Common Review Requirements.

(b) In addition to general review requirements, applications for an interim use permit shall also include the following:

1. A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;

2. A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the interim use is proposed;

3. Development plans for the proposed use showing all information deemed necessary by the Community Development Department to ensure that the city can determine whether the proposed use will conform to all City Code standards. Such information may include, but shall not be limited to, the following:

a. Site plan drawn to scale showing parcel and existing topography;

b. Location and buildings setbacks per this chapter of all buildings and the size of each, including square footage;

c. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks including dimensions of each;

d. Natural features such as woodlands, wetlands, shorelines, etc;

e. Landscaping and screening plans, including species and size of trees and shrubs proposed;

f. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;

g. Type of business or activity and proposed number of employees;

h. Proposed floor plan and elevations of any building with use indicated;

i. Proposed outdoor storage spaces, including dimensions and detail of all intended storage types (if applicable);

j. Signage plan.

4. If deemed necessary by the Community Development Department, a certificate of survey may be required to be submitted with the application in addition to or in lieu of a site plan.

5. A signed consent agreement, provided by the City of Monticello, agreeing:

a. That the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the interim use permit;

b. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and

c. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.

6. Any other information that may be reasonably required by the city to evaluate the application.

(4) Review.

(a) Interim use permit criteria. Approval of an interim use permit application requires that the city find that conditions can be established to ensure all of the following criteria will always be met:

1. The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.

2. The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, odor, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.

3. The use will not adversely impact implementation of the comprehensive plan.

4. The date, event, or change in circumstances that will terminate the use is identified with certainty.

5. The applicant has signed a consent agreement stating that the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the interim use permit as well as agreeing that the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future.

6. The applicant agrees to all conditions that the City Council deems appropriate to allow the use including the requirement of

appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

7. There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.

8. The interim use will adhere to any applicable additional criteria outlined in §§ 153.090 through 153.093 for the proposed use.

(b) Planning Commission. Before any interim use permit is considered, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with § 153.027(I). Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general interim use permit review criteria outlined in § 153.028(E)(4)(a) and any specific criteria outlined for the specific use in §§ 153.090 through 153.093. Recommendations for approval may include such conditions as are deemed necessary to ensure compliance with each of the interim use permit review criteria. Denial recommendations shall be supported by findings of fact as to why the permit request was denied. The Community Development Department may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(c) Industrial and Economic Development Committee. Interim use permits in commercial or industrial areas may, at the discretion of the Community Development Department, be placed before the Industrial and Economic Development Committee for review and recommendation.

(d) City Council. Upon receiving the recommendations of the Planning Commission, the City Council shall consider the request against the interim use permit review criteria outlined in § 153.028(E)(4)(a) and take action on the request(s). In approving an interim use permit, the City Council may impose conditions on the approval as are deemed appropriate to ensure compliance with each of the interim use permit review criteria. Denial of any request shall be accompanied by findings of fact at to how the request did not meet one or more of the review criteria.

(5) Reasonable conditions. In approving an interim use permit, the city may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the interim use permit review criteria.

(6) Effect of an interim use permit approval.

(a) The issuance of an interim use permit shall authorize only the improvements and use approved by the City Council as an interim use over the specified timeframe.

(b) An interim use permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(7) Termination. An interim use shall be terminated and removed for any of the following reasons, whichever occurs first:

(a) The date, event or circumstances stated in the permit.

(b) Upon violation of conditions under which the permit was issued.

(c) Upon change in the city's zoning regulations which renders the use nonconforming.

(d) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(8) Revocation. The City Council may revoke an interim use permit upon finding that any of the conditions set forth in the permit are violated. Before the revocation is considered, the City Council shall hold at least one public hearing after proper written notice has been issued in accordance with § 153.027(I). Following the hearing and subsequent discussion, the City Council may revoke the IUP by adopting findings of fact showing there has not been substantial compliance with the required conditions.

(9) Amendments. All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.

(10) Renewal. All renewals of an existing interim use permit shall be processed in the same manner as a new application.

(F) Site plan submittals.

(1) Purpose and scope. The City Council declares it necessary and appropriate to require site plan review of development in certain zoning districts to preserve and promote attractive, well-planned, stable urban conditions, and to review compliance with the requirements of this chapter. Site plan approval by the Community Development Department must be obtained before a building permit is issued in order to ensure the following:

(a) A proposed project's compatibility with the area environment and with other existing land uses and buildings in the surrounding area.

(b) The quantity, quality, utility, size, and type of a proposed project's required open space and proposed landscaping improvements.

(c) The ability of a proposed project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians.

(d) The quantity, quality, utility, size, and type of a proposed project's required community facilities.

(e) The location and adequacy of a proposed project's provision for drainage and utilities.

(f) Security, fire protection, and life/safety issues.

(2) Applicability.

(a) Unless exempted pursuant to § 153.028(F)(3) below, site plan review shall be required for all residential and nonresidential development (including changes to required parking areas, proposed changes to outside commercial sales or storage areas, etc) prior to the issuance of a building permit or other approval.

(b) The Community Development Department is authorized to review and approve, approve with conditions, or deny Site Plan reviews in accordance with the procedures and standards of this section.

(c) Site plan review shall be required for all new development projects in the CCD, Central Community District, which substantively change the area and/or bulk of any building or use. Such site plan review shall be conducted by the Planning Commission, but shall not be formal Public Hearing. The Planning Commission may choose, at its sole option, to provide for and consider public comment.

(d) In lieu of division (F)(2)(c) of this section, an applicant may choose to request a Concept Review joint meeting between the Planning Commission and City Council, in accordance with the process identified in § 153.028(O)(9)(a).

(3) Exemptions. The following may be exempted from site plan review:

(a) Detached residential uses (i.e. single-family homes).

(b) Residential accessory buildings or other similar structures as determined by the Community Development Department.

(c) The internal construction or change in floor area of a development that does not increase gross floor area, increase the intensity of use, or affect parking requirements on a site that meets all development and site design standards of this chapter.

(d) Temporary uses.

(e) Any building exempted by state statute.

(f) Additions to existing buildings, structures or uses, if, in the opinion of the Community Development Department, such addition does not substantially affect the proposed or current development of adjacent or nearby properties.

(4) Initiation. An application for site plan review may be initiated by the property owner or other person with authority to file an application pursuant to § 153.027(B), Authority to File Applications.

(5) Submittal.

(a) All submittals for site plan review shall be in accordance with § 153.027, Common Review Requirements.

(b) In addition to the common application requirements of § 153.028(F)(5)(a) above, submittals for site plan review shall also include at least the following to be considered complete (except as exempted by the Community Development Department). All documents shall be prepared by a registered land surveyor, registered professional engineer, or other qualified professional as directed by the Community Development Department.

1. Name of the project;

2. Name, address and telephone number of applicant, engineer, architect, surveyor and owner of record;

3. Legal description;

4. Date proposed, north arrow, engineering scale, number sheets and name drawer;

5. Vicinity map showing relationship of the development to surrounding streets, rights-of-way and the like;

6. Description of intended use of site, buildings, structures, including type of occupancy and occupancy load;

7. Tabulation box, indicating the following:

a. Size of parcel in acres and square feet;

b. Gross floor area of each building;

c. Percent of site covered by impervious surface;

d. Projected number of employees;

e. Number of seats if intended use is a restaurant or place of assembly;

f. Number of parking spaces required;

g. Number of parking spaces provided, including handicapped;

h. Dimension of parking spaces and aisles;

i. Existing zoning and land use designations; and

j. Area of public open space (if applicable).

8. Property line dimensions, location of all existing and proposed structures with distance from boundaries, distance between structures,

building dimensions and floor elevations within proposed site plan boundary shown and to a distance of 150 feet beyond;

9. Topographic data within the property to be subdivided and 200 feet beyond the property boundary, showing contours as follows:

a. All areas of the proposed area with a slope greater than 25% must be clearly indicated:

b. Two-foot contours where slope is 7% or less;

c. Two-foot contours where slope is from 7% to 15%; and

d. Ten-foot intervals where slope is greater than 15%.

10. Grading, drainage and erosion control plan prepared by a registered professional engineer, providing all information outlined in § 153.069(D).

11. Utility plans prepared by a registered professional engineer consisting of the following:

a. Location, size and grades of all existing sanitary sewer, water main, hydrants and storm sewer on site or adjacent to for proposed connection;

b. Location of all existing gas mains, electric and phone cables, light poles, power boxes and the like;

c. Location, size, grades and materials for all proposed public sanitary sewer, water main, hydrants and storm sewer;

d. Supplemental calculations for trunk sanitary sewer and water main, if required by the Community Development Department;

e. Supplemental storm sewer computation sheet verifying capacities and volumes for all pipe segments, if required by the Community Development Department; and

f. Existing and proposed drainage and utility easements.

12. Street plans prepared by a registered professional engineer showing the following:

a. All existing and proposed points of ingress/egress;

b. Widths at property lines;

c. Turning radii abutting right-of-way;

d. Center line, paving width, existing and proposed median and curb cuts and intersection of streets and driveways; and

e. Access alignment and grades.

13. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;

14. Landscape plan prepared by a qualified professional providing all information outlined in § 153.060(D);

15. Location, access and screening detail of large trash handling and recycling collection areas in compliance with the requirements of § 153.092(D)(34);

16. Building elevations (colored renderings) for all sides of the proposed buildings which detail the materials being used. Any landscaping shown on elevations must be shown as it appears in size and height at the time of planting. The elevations shall indicate the visual location and size of all exterior utility and mechanical systems, including HVAC, meters, and powerlines;

17. Location and screening detail of roof top equipment;

18. Location and detail of signage providing all pertinent information outlined in § 153.028(K)(3)(b) as determined by the Community Development Department;

19. Lighting location, style and mounting and light distribution plan;

20. Project narrative; and

21. Any other information that may be reasonably required by the city to evaluate the application including but not limited to traffic analysis, floor plans, building elevations, rendered drawings, and materials samples.

(6) Review.

(a) Site plan review criteria. Recommendations and decisions on a site plan shall be based on consideration of the following criteria:

1. Whether the proposed development is consistent with all the requirements of this chapter and the City Code;

2. Whether the proposed development is in compliance with the applicable zoning district and overlay districts;

3. Whether the proposed development is in compliance with other city approved planning documents; and

4. Whether the proposed development meets all the requirements or conditions of any applicable development approvals.

(b) Site plan review process.

1. Upon receiving a complete submittal for site plan review, the Community Development Department shall review the plans to determine their conformance to all ordinance requirements. The Community Development Department may be assisted in conducting site plan reviews by representatives from other city departments or divisions.

2. Site plan submittals determined to conform with the approval criteria outlined in § 153.028(F)(6)(a) shall be approved by the Community Development Department with any conditions deemed necessary. A notice of site plan approval shall be provided to the submitter that includes all conditions, comments, and recommendations.

3. Site plans not conforming with the approval criteria outlined in § 153.028(F)(6)(a) shall be revised by the submitter to meet the requirements of the city ordinance prior to approval of any other permit.

4. The approval of a site plan by the Community Development Department does not in any way guarantee future approval of other applications that may be required by the regulations of the city (e.g. a building permit, certificate of occupancy, subdivision approval, conditional use approval, etc).

(7) Subsequent development. Development authorized by a site plan approval shall not be carried out until the applicant has secured all other approvals required by this chapter or any other applicable regulations. Such permits and approvals shall only be granted once all conditions of the site plan review and all relevant portions of this chapter are met.

(8) Time limit.

(a) Unless otherwise specified in the site plan approval, an application for a building permit shall be applied for within one year of the date of the site plan approval, otherwise the site plan shall become invalid. Permitted timeframes do not change with successive owners.

(b) Upon written request, one extension of one year may be granted by the Community Development Department if the applicant can show good cause.

(9) Amendments of an approved site plan.

(a) Requested amendments that involve one of the following shall be reviewed as a new site plan submittal:

1. The density of the development is to be increased;

2. The gross square footage of nonresidential buildings is to be increased or the number of stories is to be increased;

3. Approved landscaping elements are to be modified;

4. Required open space is to be modified;

5. Drainage, streets, or other engineering design changes will materially alter items approved in the site plan; and/or

6. Major changes are proposed that could potentially create an adverse impact on stormwater quality, stormwater quantity management, or other stormwater management ordinance requirements.

(b) Requested site plan amendments that do not fall into one of the categories outlined in § 153.028(F)(10) above may be approved by the Community Development Department if it is determined that the requested change will NOT:

1. Substantially affect the terms of the original approval; and

2. Result in significant adverse impacts on the surrounding properties or the city at-large.

(c) If, in the opinion of the Community Development Department, a proposed change will substantially affect the terms of the original approval or would result in significant adverse impacts on the surrounding properties or the city at-large, then a re-submittal of a new site plan may be required pursuant to the provisions of this chapter.

(10) Appeal. The applicant for a site plan review may appeal the decision of the Community Development Department to the Board of Adjustment and Appeals per § 153.028(G).

(G) Appeal of administrative decisions.

ADMINISTRATIVE APPEAL
Complete Application
Community Development Report Writen for the Board of Adjusment
Board of Adjustment Review / DECISION
Option to Appeal the Board's Decision to the City Council

(1) Purpose and scope. This division sets out the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision made under this chapter.

(2) Initiation of proceedings. Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the Community Development Department or other administrative official of the city charged with the administration or enforcement of this chapter.

(3) Procedure.

(a) Submission of appeal (application).

1. An appeal pursuant to this division shall be initiated by filing a written appeal of the administrative decision or determination within ten business days of the date of the order, decision, determination, or interpretation with the Community Development Department or other administrative official from whom the appeal is taken.

2. All applications for an appeal shall be in accordance with § 153.027, Common Review Requirements.

(b) Review by the Board of Adjustment and Appeals.

1. Upon receiving the written appeal of the administrative decision or determination, the Community Development Department shall place the matter on the next available agenda of the Board of Adjustment and Appeals.

2. A report prepared by the Community Development Department which is accompanied by all relevant papers, documents, and other materials relating to the order, decision, determination, or interpretation shall be provided to the Board of Adjustment and Appeals prior to the meeting. These materials shall constitute the record of the appeal.

3. Following review of the appeal, the Board of Adjustment and Appeals shall adopt findings of fact and make a decision on the appeal.

4. Decisions of the Board of Adjustment and Appeals are final unless an affected party files a second written appeal outlining the basis for the appeal within five business days of the decision.

(c) Review by the City Council.

1. Upon receiving a second written appeal of the decision rendered by the Board of Adjustment and Appeals, the Community Development Department shall place the matter on the next available agenda of the City Council scheduled at least seven days after the date of the appeal.

2. Materials constituting the record of appeal from the Board of Adjustment and Appeals review shall be provided to the City Council for examination prior to the meeting.

3. Following review of the appeal, the City Council shall review and decide on the appeal in accordance with this chapter and state law.

(4) Review criteria. An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural, substantive requirements, or intent of this chapter or state law.

(5) Conditions. The City Council may impose conditions upon their decision to ensure that the requirements and purposes of this chapter are followed.

(H) Building permits.

(1) Purpose. This section establishes when obtaining a building permit is required, how it will be reviewed, what surveys may be required to track construction, and how unauthorized work will be handled.

(2) In general.

(a) No person, firm, or corporation shall erect, alter, construct, enlarge, expand, repair, move, improve, convert, demolish, equip, use, occupy, or maintain any building, structure, or portion thereof, within the City of Monticello until proper permits have been issued by the Community Development Department.

(b) No building permit or other permit pertaining to the use of land or buildings shall be issued unless such building is designed and arranged to conform to the provisions of this chapter.

(3) Exemptions. Building permits shall not be required for those structures and improvements specifically exempted by the adopted building code as may be amended (see Minn. Rule chapter 1300 "Administration of the State Building Code").

(4) Surveys required.

(a) Every application for building permit shall be accompanied by a certified site survey (excluding interior remodels, re-roofs, re-siding and general maintenance) at a scale and in quantities deemed necessary by the Community Development Department. Because the survey will be used to determine an application’s conformance with City Code, it shall be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit shall authorize only land alterations identified on the survey. Surveys shall include all information as deemed necessary by the Community Development Department to provide for the enforcement of this chapter.

(b) All new structures shall provide to the city an as-built foundation survey upon completion of work to the foundation unless exempted by the Community Development Department. The as-built foundation survey shall certify both the final setbacks of the structure being built, and the elevations at which the new structure exists. Failure to provide a foundation survey upon foundation completion will result in the builder continuing with construction at his/her own risk. Expenditures incurred beyond the construction of the foundation will not be considered in determining the actions required to bring the building back into conformance if not built to approved plans. The foundation survey shall be on-site before the framing inspection is done and approved by the building official.

(c) All new structures shall provide to the city an as-built grading survey upon completion of work unless exempted by the Community Development Department. The as-built grading survey shall certify the final topography of the site and verify the drainage patterns existing upon completion of work. The city reserves the right to withhold the certificate of occupancy for a dwelling until final grading addresses all problems that may be detrimental to adjacent properties.

(5) Review. The Community Development Department shall review all building permit applications for conformance to ordinance requirements.

(6) Unauthorized work. Work done without the authorization of a permit and/or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in § 153.999. Structures being built out of conformance shall be brought into conformance.

(I) Certificates of occupancy.

(1) Purpose. This section establishes the requirement for city approval prior to the use or occupation of new buildings or structures, or prior to a change in use within an existing structure. Issuance of a certificate of occupancy signifies that the building or structure complies with all code requirements.

(2) Required.

(a) No building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Community

Development Department stating that the building or structure complies with all provisions of this chapter.

(b) No change in use of an existing building or structure shall occur until a certificate of occupancy shall have been issued by the Community Development Department stating that the building or structure complies with all provisions of this chapter.

(3) Application. A certificate of occupancy shall be applied for coincident with an application for a building permit or prior to a proposed change in use.

(4) Issuance. A certificate of occupancy will be issued within ten days after the Community Development Department shall have completed a final inspection and found the building or structure conforming to all code requirements.

(J) Sign permits.

(1) Purpose and scope. This division sets out the procedures to follow when requesting a sign permit.

(2) Initiation of proceedings. A request for a sign permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to § 153.027(B), Authority to File Applications.

(3) Application.

(a) All applications for a sign permit shall be in accordance with § 153.027, Common Review Requirements.

(b) In addition to general review requirements, applications for a sign permit shall also include at least the following to be considered complete (except as exempted by the Community Development Department):

1. Names and addresses of the applicant, owners of the sign and lot.

2. The address(es) at which the sign(s) are to be erected.

3. The lot, block and addition at which the signs are to be erected and the street on which they are to front.

4. Type and size of sign (e.g., wall sign, pylon sign).

5. A site plan (or survey if required by the Community Development Department) which is to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.

6. Plans, location and specifications and method of construction and attachment to the buildings or placement method on the ground.

7. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and ordinances of the city, if required.

8. Written consent of the owner or lessee of any site on which the sign is to be erected.

9. Any electrical permit required and issued for the sign.

10. A detailed description of any electronic or electrical components that are proposed to be added to the sign.

11. If the proposed sign is a sandwich board sign to be located in the CCD District within the public right-of-way, the owner of the sign shall provide a certificate of general liability insurance with minimum coverage of $300,000 naming the city as an additional insured for the sign to be located upon the public right-of-way within the CCD, Central Community District.

12. If illuminated, a light distribution plan or other information demonstrating compliance with the lighting requirements of this chapter.

13. Other information to demonstrate compliance with this and all other ordinances of the city.

(4) Review.

(a) Sign review criteria. Approval of a sign permit application shall be based on the following criteria:

1. Whether the proposed sign is consistent with all the requirements of this chapter and any other City Code requirements;

2. Whether the proposed sign is in compliance with the applicable zoning district and overlay district regulations; and

3. Whether the proposed sign meets all the requirements or conditions of any applicable development approvals or agreements.

(b) Sign review process.

1. The Community Development Department will review all sign permit requests.

2. Applications determined to conform with the approval criteria outlined in § 153.028(K)(4)(a) shall be approved by the Community Development Department with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

3. Applications not conforming with the approval criteria outlined in § 153.028(K)(4)(a) shall be denied by the Community Development Department. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(5) Reasonable conditions. In approving a sign permit, the Community Development Department may impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with a sign permit review criteria.

(6) Effect of a sign permit approval.

(a) The issuance of a sign permit shall authorize only the installation or replacement of signage approved by the Community Development Department.

(b) A sign permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(7) Time limit.

(a) Failure to install the approved signage within six months of the date of approval will invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Community Development Department if the applicant can show good cause.

(8) Amendments. All requested amendments to an existing sign permit shall be processed in the same manner as a new application.

(9) Appeal. The applicant for a sign permit may appeal the decision of the Community Development Department to the Board of Adjustment and Appeals per § 153.028(H).

(K) Temporary use permits.

(1) Purpose and scope. This division sets out the procedures to follow when requesting a temporary use permit.

(2) Initiation of proceedings. A request for a temporary use permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to § 153.027(B), Authority to File Applications.

(3) Application.

(a) All applications for a temporary use permit shall be in accordance with § 153.027, Common Review Requirements.

(b) In addition to general review requirements, applications for a temporary use permit shall also include at least the following to be considered complete (except as exempted by the Community Development Department):

1. A written narrative which includes:

a. A description of the proposed temporary use, how it will function on the property, hours and dates of operation, and any other information necessary to fully describe the request; and

b. An explanation of how the proposed temporary use will meet each of the criteria set forth in § 153.028(L)(4)(a), as well as any additional criteria that may apply for the specific use as listed in §§ 153.090 through 153.093.

2. A site plan of the property showing all information necessary to accurately depict how the proposed use will function on the site. Information required on the site plan shall include but not be limited to:

a. The location of all existing and proposed structures;

b. Driveways and parking areas;

c. Proposed storage spaces;

d. Natural features such as woodlands, wetlands, shorelines, etc;

e. Proposed number of parking spaces (if applicable).

3. Any other information that may be reasonably required by the city to evaluate the application.

(4) Review.

(a) Temporary use permit review criteria. Approval of a temporary use permit shall only be granted once the Community Development Department has determined the use shall:

1. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

2. Be compatible with the principal uses taking place on the site;

3. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

4. Not include permanent alterations to the site;

5. Not maintain temporary signs associated with the use or structure after the activity ends;

6. Not violate the applicable conditions of approval that apply to a site or use on the site;

7. Not interfere with the normal operations of any permanent use located on the property; and

8. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

(b) Temporary use permit review process.

1. The Community Development Department will review all temporary use permit applications.

2. Applications determined to conform with the approval criteria outlined in § 153.028(L)(4)(a) shall be approved by the Community Development Department with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

3. Applications not conforming with the approval criteria outlined in § 153.028(L)(4)(a) shall be denied by the Community Development Department. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(5) Reasonable conditions. In approving a temporary use permit, the Community Development Department may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with ordinance requirements.

(6) Effect of a temporary use permit approval.

(a) The issuance of a temporary use permit shall authorize only the specific temporary use approved by the Community Development Department over the specified timeframe.

(b) Issuance of another temporary use permit on the same site for an identical or similar use as determined by the Community Development Department shall be per the requirements of this chapter.

(7) Time limit. No permit shall authorize a temporary use for more than the allowable duration specified in Table 5-6 for the specific temporary use.

(8) Amendments and withdrawals.

(a) All requested amendments to a temporary use permit shall be processed in the same manner as a new application.

(b) Amendments may not alter the allowed timeframe for a temporary use if the temporary use authorized under an existing permit has already begun.

(c) Approved temporary use permits may be withdrawn by the applicant prior to the temporary use beginning to avoid the 90 days between temporary uses requirement in § 153.028(L)(6)(b).

(d) Approved permits for temporary uses that have already begun cannot be withdrawn.

(9) Appeals. The applicant for a temporary use permit may appeal the decision of the Community Development Department to the Board of Adjustment and Appeals per § 153.028(H).

(L) Administrative home occupation permits.

(1) Purpose and scope. This division sets out the procedures to follow when requesting an administrative home occupation permit.

(2) Initiation of proceedings. A request for an administrative home occupation permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to § 153.027(B), Authority to File Applications.

(3) Application.

(a) All applications for an administrative home occupation permit shall be in accordance with § 153.027, Common Review Requirements.

(b) In addition to general review requirements, applications for an administrative home occupation permit shall also include at least the following to be considered complete (except as exempted by the Community Development Department):

1. A narrative regarding the home occupation which addresses the following issues:

a. How many employees will be working at the home occupation site;

b. All activities proposed to occur in conjunction with the home based occupation (i.e. office work, customer visits, sales, stock storage, etc);

c. Vehicle related issues (e.g. will there be a vehicle(s) used in conjunction with the business? Will the business require any non-standard deliveries to the site? Where will customers park? etc).

d. A calculation of the square footage within structures to be used by the home occupation.

2. A site plan showing in general how the home occupation will operate on the site. The site plan should show (as applicable):

a. All buildings to be used by the home occupation;

b. Proposed outdoor storage areas;

c. Proposed parking areas for vehicles and/or customers;

d. Proposed sign location(s) in conformance with sign regulations;

e. Any proposed alterations to buildings to accommodate the home occupation;

f. Any proposed features necessary to hide visible evidence of the home occupation from either the public right-of-way or adjacent properties (e.g. plantings, screening fences, etc).

(4) Review.

(a) Administrative home occupation review criteria. Approval of an administrative home occupation permit shall be based on the following criteria:

1. The home occupation shall meet all of the general requirements for home occupations in § 153.092(D)(18)(d);

2. The home occupation shall meet all of the general requirements specific to administrative home occupations in § 153.092(D)(18)(f);

(b) Administrative home occupation review process.

1. The Community Development Department will review all administrative home occupation permit applications.

2. Applications determined to conform with the approval criteria outlined in § 153.028(M)(4)(a) shall be approved by the Community Development Department with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

3. Applications not conforming with the approval criteria outlined in § 153.028(M)(4)(a) shall be denied by the Community Development Department. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(5) Reasonable conditions. In approving an administrative home occupation permit, the Community Development Department may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with ordinance requirements.

(6) Effect of an administrative home occupation permit approval.

(a) The issuance of an administrative home occupation permit shall authorize only the activities and uses approved by the Community Development Department.

(b) An administrative home occupation permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(c) The initial administrative home occupation permit for a property may be issued for a period of one year.

(d) Renewals of existing administrative home occupation permits may be issued for periods of up to three years at the discretion of the Community Development Department upon consideration of the operation as observed by staff and the level of complaints made about the home occupation.

(e) An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that his monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be reviewed without taking into consideration that a previous permit has been granted. The previous granting or renewal of a permit shall not constitute a precedent or basis for the renewal of a permit.

(7) Time limit.

(a) Failure to begin the approved home occupation within six months of the date of approval will invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Community Development Department if the applicant can show good cause.

(8) Amendments. All requested amendments to an administrative home occupation permit shall be processed in the same manner as a new application.

(9) Appeal. The applicant for an administrative home occupation permit may appeal the decision of the Community Development Department to the Board of Adjustment and Appeals per § 153.028(H).

(M) Grading, drainage and erosion control permit.

(1) Purpose. This section establishes when a grading, drainage stormwater management, and erosion control permit (“grading permit”) is required, how it will be reviewed, information required with the application, and how unauthorized work will be handled. Requiring a grading permit enables the city to protect the public by ensuring that erosion does not endanger water resources or unnecessarily require extra maintenance of sewers and ditches and/or the dredging of lakes and ponds. A grading permit promotes the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in Monticello. All grading requirements can be found in § 153.069.

(2) In general. A grading permit shall be required for land-disturbing activity that would require the uncovering or distributing of material in excess of any of the following measurements:

(a) Five thousand square feet.

(b) Four hundred cubic yards undeveloped land, or 40 cubic yards developed land.

(c) Within 200 feet of a waterway or surface water(s).

(3) Exceptions.

(a) No grading permit is required for land disturbances under the amounts specified in § 153.028(M)(2), or for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

2. General establishment of new construction lawns, or the addition of four or fewer inches of topsoil.

3. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(b) In the case of grading specific to and in conjunction with a single building permit, a separate grading permit is not required.

1. The building permit shall be reviewed and serve as the grading permit.

2. The individual lot permittee shall be required to provide a letter of credit or other security deemed acceptable by the city with the building permit application.

a. The security shall cover city costs for street sweeping, installation, maintenance and repairs to erosion control measures. The bond will be in an amount as specified by the current city ordinance for fee schedule. Said security shall be provided prior to the release of the grading permit.

b. The security shall be released after turf is established as specified in the City Design Guidelines and Plan Requirements Manual, and the turf establishment is inspected by the City of Monticello and deemed to be approved.

(4) Application.

(a) All applications for a grading permit shall be in accordance with § 153.027, Common Review Requirements.

(b) In addition to general review requirements, applications for a grading permit shall also include at least the following to be considered complete (except as exempted by the Community Development Department):

1. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.

2. A grading, drainage, stormwater management, and erosion control plan meeting the requirements of § 153.069(D). Each application shall include the required number of plans and other required materials as specified by the Community Development Department.

3. The application form shall include a statement by the applicant that any land clearing, construction, or development involving the movement of earth shall be in accordance with the approved grading, drainage, stormwater management, and erosion control plan.

4. The permittee will be required to file with the City of Monticello an irrevocable, automatically renewing letter of credit, or other improvement security in the amount specified by the current city ordinance for fee schedule. This security shall be in addition to the required non-refundable filing fee as specified by city ordinance, which shall be submitted under separate payment.

a. The security shall cover all costs of engineering and inspection, site improvements, street sweeping, repairs to erosion control measures, and maintenance of improvements for such period as specified by the City of Monticello. Said security shall be provided prior to the release of the grading permit.

b. Security shall be released after final stabilization is complete, erosion control measures have been removed and their removal area inspected by the City of Monticello and deemed to be approved.

(c) The City of Monticello requires complete application no less than 15 working days in advance of the desired grading permit release date.

(5) Review.

(a) Grading permit review criteria. Approval of a grading permit shall be based on the following criteria:

1. Whether the proposed grading permit is consistent with all the requirements of § 153.069 and any other City Code requirements;

2. Whether the proposed grading permit is in compliance with all engineering standards adopted by the city;

3. Whether the proposed grading permit is in compliance with any previous approvals for the facility (e.g. grading for additional parking previously approved by a conditional use permit).

(b) Grading permit review process.

1. The Community Development Department shall review all grading permit applications.

2. Applications determined to conform with the approval criteria outlined in § 153.028(M)(5)(a) shall be approved by the Community Development Department with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

3. Applications not conforming with the approval criteria outlined in § 153.028(M)(5)(a) shall be denied by the Community Development Department. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(6) Reasonable conditions. In approving a grading permit, the Community Development Department may impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the grading permit review criteria and other city ordinances.

(7) Effect of grading permit approval. The issuance of a grading permit shall authorize only the changes approved by the Community Development Department as depicted by the application materials.

(8) Time limit.

(a) Failure to complete the authorized grading within six months of the date of approval will invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Community Development Department if the applicant can show good cause.

(9) Amendments. All requested amendments to an existing grading permit shall be processed in the same manner as a new application.

(10) Unauthorized work. Work done without the authorization of a permit and/or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in § 153.999. Driveways or parking lots being built out of conformance shall be brought into conformance.

(11) Appeal. The applicant for a grading permit my appeal the decision of the Community Development Department to the Board of Adjustment and Appeals per § 153.028(H).

(N) Driveway permits.

(1) Purpose. This section establishes when a driveway permit is required, how it will be reviewed, information required with the application, and how unauthorized work will be handled. Requiring a driveway permit enables the city to inspect work done within the right-of-way, protect the public by setting and enforcing construction standards and ensure proper pavement construction.

(2) Initiation of proceedings. A request for a driveway permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to § 153.027(B), Authority to File Applications.

(3) In general.

(a) A driveway permit shall be required for the installation, repair, expansion, reconfiguration or resurfacing of any driveway or parking lot intended for use by more than three vehicles.

(b) A driveway permit shall only be issued after the Community Development Department determines the proposed plan sets adhere to the city's adopted engineering standards.

(4) Application.

(a) All applications for a driveway permit shall be in accordance with § 153.027, Common Review Requirements.

(b) In addition to general review requirements, applications for a driveway permit shall also include at least the following to be considered complete (except as exempted by the Community Development Department):

1. A written narrative providing the following information:

a. The legal description, address, and owners name of the premises involved;

b. The date on which the proposed improvement is proposed to be commenced;

c. The name, address, and contact information for the contractor being hired to complete the proposed improvements.

2. A site plan (or certified site survey if required by the Community Development Department) at a scale and in quantities deemed necessary by the Community Development Department showing:

a. Lot dimensions;

b. Lot area in square feet;

c. Location of all existing buildings, landscaping, screening and natural features as directed by the Community Development Department (including but not limited to woodlands, wetlands, shorelines, and individual trees which may be impacted by the proposed driveway or parking lot construction);

d. Location of the existing driveway (if applicable), the proposed driveway and the square footage and dimension of each;

e. Driveway material;

f. Location of existing public sidewalks and trails;

g. Calculation of the existing and proposed impervious surface coverage on the lot;

h. Identify existing and proposed curb types specifically calling out proposed changes to existing facilities.

3. For new construction and expansions, an erosion control plan shall be submitted.

(5) Review.

(a) Driveway permit review criteria. Approval of a driveway permit shall be based on the following criteria:

1. Whether the proposed driveway permit is consistent with all the requirements of this chapter and any other City Code requirements;

2. Whether the proposed driveway permit is in compliance with all engineering standards adopted by the city;

3. Whether the proposed driveway permit is in compliance with any previous approvals for the facility (e.g. adding parking as previously approved by a conditional use permit).

(b) Driveway permit review process.

1. The Community Development Department shall review all driveway permit applications.

2. Applications determined to conform with the approval criteria outlined in § 153.028(O)(4)(a) shall be approved by the Community Development Department with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

3. Applications not conforming with the approval criteria outlined in § 153.028(O)(4)(a) shall be denied by the Community Development Department. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(6) Reasonable conditions. In approving a driveway permit, the Community Development Department may impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the driveway permit review criteria.

(7) Effect of driveway permit approval. The issuance of a driveway permit shall authorize only the changes approved by the Community Development Department as depicted by the application materials.

(8) Time limit.

(a) Failure to complete driveway or parking lot improvements within six months of the date of approval will invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Community Development Department if the applicant can show good cause.

(9) Amendments. All requested amendments to an existing driveway permit shall be processed in the same manner as a new application.

(10) Unauthorized work. Work done without the authorization of a permit and/or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in § 153.999. Driveways or parking lots being built out of conformance shall be brought into conformance.

(11) Appeal. The applicant for a grading permit my appeal the decision of the Community Development Department to the Board of Adjustment and Appeals per § 153.028(H).

(O) Planned unit developments.

(1) Purpose and intent. The purpose of the Planned Unit Development (PUD) zoning district is to provide greater flexibility in the development of neighborhoods and non-residential areas in order to maximize public values and achieve more creative development outcomes while remaining economically viable and marketable. This is achieved by undertaking a process that results in a development outcome exceeding that which is typically achievable through the conventional zoning district. The city reserves the right to deny the PUD rezoning and direct the developer to re-apply under the standard applicable zoning district.

PLANNED UNIT DEVELOPMENT
PUD Concept PROPOSAL
PUD Concept Proposal REVIEW
(Staff, applicable Commissions & Council)
PUD Development Stage, Prelim Plat & Rezoning APPLICATION
PUD Preliminary Plat & Rezoning REVIEW
(Staff, applicable Commissions & Council)

(2) Initiation of proceedings. Applications for a PUD shall be initiated by application of the property owner or other person having authority to file an application pursuant to § 153.027(B), Authority to File Applications.

(3) Reflection on the official zoning map.

(a) PUD provisions provide an optional method of regulating land use which permits flexibility in allowed uses and other regulating provisions. In some circumstances, however, rules and regulations governing the original zoning district, or other zoning regulations found elsewhere in the city's ordinances, may be appropriate to apply within the PUD. As such, approval of a Planned Unit Development and execution of a PUD agreement shall require the property in question be rezoned to PUD. For each PUD District, a specific ordinance shall be adopted, along with a tracking designation for use on the official zoning map to distinguish it from other PUD districts and identify the adopted ordinance in the City Code. Once a PUD has been granted and is in effect for a parcel, no building permit shall be issued for that parcel which is not in conformance with the approved PUD Plan, the current Minnesota State Building Code and all associated documents, and with all other applicable City Code provisions.

(b) All PUD rezonings approved prior to the effective date of this chapter shall retain their zoning classifications of R-PUD, and shall continue to be governed by the ordinance and resolutions which created these areas.

(c) All PUDs previously granted by conditional use permit shall continue to be regulated under the terms of the CUP.

(4) Permitted locations for PUD rezoning. A rezoning to PUD may be requested for any area regardless of current zoning.

(5) PUD qualifications. Rezonings to PUD will be considered only for areas of land in single ownership or control, except in the following circumstances:

(a) Natural features of the land are such that development under standard zoning regulations would not be appropriate in order to conserve such features;

(b) The land is intended to be developed in accordance with a prior PUD adjacent to or across the street from the subject property;

(c) The PUD process is desirable to ensure compatibility and careful consideration of the effect of a development on surrounding land uses;

(d) Multiple party ownership is adequately secured through a corporation, partnership, or other legal entity that will ensure the ability to

fulfill all of the obligations of the PUD process, including approvals, development, and securities.

(6) Permitted uses within PUDs. Uses within a PUD shall be governed by the ordinance establishing the PUD and by the conditions, if any, imposed by the city in the approval process and PUD documents.

(7) Expectations of a development seeking a rezoning to PUD. Planned unit development is designed to allow flexibility from the application of standard zoning regulations to achieve a variety of public values that will be identified for each specific PUD project. The following list represents examples of public values that may be applicable to any individual PUD project, but is not necessarily inclusive, nor are all examples applicable to all projects:

(a) Ensure high quality construction standards and the use of high quality construction materials;

(b) Promote a variety of housing styles which include features such as side or rear loaded garages, front porches, varying roof pitches, and four sided architecture/articulation;

(c) Eliminate repetition of similar housing types by encouraging a housing mixture that diversifies the architectural qualities of a neighborhood;

(d) Promote aesthetically pleasing design within the neighborhood and appears attractive and inviting from surrounding parcels;

(e) Incorporate extensive landscaping and site amenities in excess of what is required by code;

(f) Provide high-quality park, open space, and trail opportunities that exceed the expectations established in the Comprehensive Plan;

(g) Provide access to a convenient and efficient multi-modal transportation system to service the daily needs of residents at peak and non-peak use levels, with high connectivity to the larger community;

(h) Promote development that is designed to reduce initial infrastructure costs and long-term maintenance and operational costs;

(i) Where applicable, maximize the use of ecologically-based approaches to stormwater management, restore or enhance on-site ecological systems, and protect off-site ecological systems including the application of low impact development (LID) practices;

(j) Facilitate a complementary mix of lifecycle housing;

(k) Preserve and protect important ecological areas identified on the city's natural resource inventory (NRI);

(l) Accommodate higher development intensity in areas where infrastructure and other systems are capable of providing appropriate levels of public services, and require lower intensity in areas where such services are inadequate, or where natural features require protection and/or preservation.

(8) Areas of flexibility.

(a) The city may consider an increase in the density or intensity of the project, along with related reductions in lot width and size if the PUD provides substantially more site amenities and public values, as outlined in § 153.028(O)(7), than could be achieved in a conventional development for the applicable land use zone.

(b) The city may consider flexibility with regard to land uses, setbacks, lot size, width, and depth, specific finishing standards of this chapter, and access to public streets, among other zoning and subdivision standards when reviewing a PUD rezoning request. Specifications and standards for lots shall be at the discretion of City Council, and shall encourage a desirable living or working environment which assists in achieving the goals set out for PUDs.

(c) The city may consider flexibility in the phasing of a PUD development. Changes to the proposed staging or timing of a PUD may be approved by the City Council when necessary or on the showing of good cause by the developer.

(9) PUD procedure. All requests for rezoning to planned unit development shall follow the steps outlined below.

(a) PUD concept proposal.

1. Prior to submitting formal development stage PUD, preliminary plat (as applicable) and rezoning applications for the proposed development, the applicant may, at its option, prepare an informal concept plan and present it to the Planning Commission and City Council at a concurrent work session, as scheduled by the Community Development Department. The purpose of the concept proposal is to:

a. Provide preliminary feedback on the concept plan in collaboration between the applicant, general public, Planning Commission , and City Council;

b. Provide a forum for public comment on the PUD prior to a requirement for extensive engineering and other plans;

c. Provide a forum to identify potential issues and benefits of the proposal which can be addressed at succeeding stages of PUD design and review.

2. a. Initiation of proceedings. A request for a PUD concept proposal review shall be initiated by the property owner and other person or party having an interest in concept proposal.

b. Proposal submittal.

(i) All proposals for a PUD concept proposal review shall be in accordance with § 153.027, Common Review Requirements.

(ii) In addition to common review requirements, proposals for a PUD Concept Plan Review shall also include at least the information in § 153.028(O)(9)(b)3. below to be considered complete (except as exempted by the Community Development Department).

c. Specific PUD concept proposal submittal requirements. The following information shall be provided unless waived by staff:

(i) A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates.

(ii) A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s).

(iii) A narrative explaining the applicant's proposed objectives for the PUD, and public values that the applicant believes may be achieved by the project.

(iv) A listing of general information including the number of proposed residential units, commercial and industrial land uses by category of use, public use areas including a description of proposed use, and any other land use proposed as part of the PUD.

(v) Calculation of the proposed density of the project and the potential density under standard zoning regulations, including both gross density and net density, accounting for developable and undevelopable land. Undevelopable land shall include all wetlands, floodplains, sensitive ecological areas identified in the Natural Resource Inventory, slopes greater than 18%, poor soils and areas of concentrated woodlands.

(vi) Outline a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed phasing of construction of public improvements and recreational and common space areas).

(vii) A concept PUD proposal illustrating the nature and type of proposed development. At a minimum, the plan should show:

A. Area calculations for gross land area;

B. Existing zoning district(s);

C. Layout of proposed lots and proposed uses. Denote outlots planned for public dedication and/or open space (schools, parks, etc.);

D. Area calculations for each parcel;

E. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;

F. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;

G. Proposed sidewalks and trails;

H. Proposed parking areas;

I. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);

J. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;

K. Location of utility systems that will serve the property; and

L. Other: An applicant may submit any additional information that may explain the proposed PUD.

(viii) A listing of the areas of flexibility from the standard zoning sought through the use of PUD design.

d. PUD concept plan proposal review. Upon receiving a PUD concept plan proposal, the Community Development Department shall:

(i) Schedule a joint meeting of the Planning Commission and City Council and shall provide notice of the meeting to all property owners within 350 feet of the property boundary of the proposal. During the concurrent meeting, the Planning Commission and City Council may make comment on the merit, needed changes, and suggested conditions which may assist the proposer in future application for proposed rezoning and PUD development plan.

A. The Planning Commission and City Council may also take comment from the public as part of the joint meeting.

B. The Council and Planning Commission shall make no formal decision as part of the consideration The City Council and Planning

Commission's comments are explicitly not an approval or decision on the project, and are intended to represent preliminary feedback related to this PUD ordinance, the applicable zoning regulations, and the Comprehensive Plan.

(b) PUD development stage, preliminary plat, and rezoning.

1. Initiation of proceedings. Requests for PUD development stage, rezoning to PUD and preliminary plat shall be initiated by application of the property owner or other person having authority to file an application pursuant to § 153.027(B), Authority to File Applications. The development stage PUD request shall be subject to timelines set by M.S. § 15.99, as it may be amended from time to time. If the applicant has processed an optional concept proposal review pursuant to § 153.028(D)(9)(a), the development stage application shall be submitted within six months of such review. If more than six months have elapsed since the concept review, the applicant may submit a new concept proposal unless the Community Development Department determines to waive this provision.

2. Application.

a. All applications for rezoning to PUD and preliminary plat shall be in accordance with § 153.027, Common Review Requirements.

b. The application for rezoning to PUD shall be in accordance with § 153.028(B), Zoning Ordinance Text and Zoning Map Amendments.

c. The application for preliminary plat (as applicable) shall be in accordance with City Code, data required for preliminary and final plats; and shall include the additional information requirements listed in § 153.028(O)(9)(c)3. below to be considered complete (except as exempted by the Community Development Department).

d. If the PUD is proposed to develop over a timeframe exceeding two years, a PUD phasing plan for the entire project (to be completed in phases) shall be submitted. Subsequent PUD Final plan applications would only grant approval for an individual phase.

3. Specific PUD development stage, preliminary plat and rezoning submittal requirements. An applicant shall provide a separate PUD development stage plan clearly delineating the proposed development and all features not consistent with underlying zoning regulations (e.g. setback deviations). At a minimum, the plan should show:

a. All required information per § 153.028(O)(9)(b)3.;

b. Administrative information (including identification of the drawing as a "PUD development stage plan," the proposed name of the project, contact information for the developer and individual preparing the

plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and true north arrow);

c. Area calculations for gross land area, wetland areas, wetland buffers, right-of-way dedications, conservation areas, and proposed public and private parks;

d. Existing zoning district(s);

e. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote outlots planned for public dedication and/or open space (schools, parks, etc.);

f. Area calculations for each parcel;

g. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;

h. Proposed gross hardcover allowance per lot (if applicable);

i. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;

j. Delineation of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;

k. Delineation of the ordinary high water levels of all water bodies;

l. Grading drainage and erosion control plan prepared by a registered professional engineer, providing all information outlined in § 153.069(C);

m. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;

n. Easements and rights-of-way within or adjacent to the subdivision parcel(s);

o. The location and orientation of proposed buildings;

p. Colored building elevations for all building sides which detail the materials being used. Any landscaping shown on elevations must be shown as it appears in size and height at the time of planting. The elevations shall indicate the visual location and size of all exterior utility and mechanical systems, including HVAC, meters, and powerlines;

q. Proposed sidewalks and trails;

r. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;

s. Lighting location, style and mounting and light distribution plan.

t. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);

u. Landscape plan prepared by a qualified professional providing all information outlined in § 153.060(D) including planting counts, sizes and species;

v. Location and detail of signage providing all pertinent information outlined in § 153.028(K)(3)(b).

w. Location, access and screening detail of large trash handling and recycling collection areas in compliance with the requirements of § 153.092(D)(34).

x. Any other information as directed by the Community Development Department.

4. PUD development stage, preliminary plat and rezoning to PUD review.

a. The application for rezoning to PUD shall be reviewed in accordance with § 153.028(B), Zoning Ordinance Text and Zoning Map Amendments.

b. The application for Preliminary Plat shall be reviewed in accordance with City Code Title 11, Preliminary Plat Procedure.

c. As part of the review process for both applications, the Community Development Department shall generate an analysis of the proposal against the expectations for PUDs and this chapter to formulate a recommendation regarding the rezoning to the Planning Commission and City Council.

d. The Planning Commission shall hold a public hearing and consider the application’s consistency with the intent and purpose of the PUD and comprehensive plan goals. The Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions of the proposed rezoning, preliminary plat and PUD development plan.

e. In approving or denying the PUD development stage application and ordinance to rezone the subject property to PUD, the City Council shall make findings on the following:

(i) Whether the PUD plan is consistent with the city's comprehensive plan;

(ii) Whether the PUD plan is tailored to the specific characteristics of the site and achieves a higher quality of site planning and greater public benefits than would be achieved under conventional provisions of the ordinance;

(iii) Whether the PUD plan addresses the purpose and intent of the PUD rezoning laid out in § 153.028(O)(1), and the public values statement established at the beginning of the process;

(iv) Whether the PUD plan addresses the expectations of a PUD laid out in § 153.028(O)(7);

(v) Whether the PUD plan maintains or improves the efficiency of public streets, utilities, and other public services;

(vi) Whether the PUD plan results in development compatible with existing adjacent and future guided land uses;

(vii) Whether the PUD can be accommodated by existing public services, such as parks, police, fire, administration, and utilities, or the developer has provided for the growth and extension of such services as a component of the PUD.

(viii) Whether the PUD is designed to take advantage of, and preserve, the natural features of the subject property, including waterways, forested areas, natural prairie, topography, views, etc.

f. An ordinance rezoning the property shall be prepared by the city, for review at the development stage PUD, but adoption of such ordinance shall occur only upon approval of the final stage PUD.

(c) PUD final stage and final plat.

1. Initiation of proceedings.

a. A final stage PUD plan and final plat that conforms with the approved Development stage PUD and preliminary plat and associated PUD rezoning ordinance shall be submitted no later than 60 days following the development stage PUD approval for review within the time allotted by M.S. § 15.99, as it may be amended from time to time. Applicants may request an extension from the Community Development Department for such submittal for a maximum of an additional six months), and shall request waivers for any statutory time limits as necessary. Applications which fail to meet this

deadline shall be deemed void and shall require review and re-application according to the development stage PUD process of this chapter.

b. The request for PUD final stage and final plat shall be initiated by application of the property owner or other person having authority to file an application pursuant to § 153.027(B), Authority to File Applications.

2. Application.

a. All applications for PUD final stage and final plat shall be in accordance with § 153.027, Common Review Requirements.

b. The application for PUD final plat shall be in accordance with City Code, Data Required for Preliminary and Final Plats.

c. In addition to general city code requirements, applications for a PUD final stage and final plat shall also include at least the information in § 153.028(O)(9)(d)3. below to be considered complete (except as exempted by the Community Development Department).

3. Specific PUD final stage and final plat submittal requirements.

a. If a PUD master plan for the entire project was submitted and approved as part of the PUD development stage, an updated master plan shall be submitted incorporating all changes required by the PUD development stage approval.

b. The PUD development stage plan shall be updated to incorporate all changes required by the PUD, preliminary plat and rezoning approvals. This document must clearly show all deviations from standard zoning being approved as part of the PUD.

c. The city shall prepare, and the applicant shall execute, a developer’s agreement which references all PUD plans, development phasing, required improvements, completion dates for improvements, the required letter of credit, all required development fees, escrows, and warranties, and any other information deemed necessary by the city.

d. The city shall, upon approval of the PUD final stage, recording of the final plat, and execution of the PUD developer’s agreement, publish the PUD ordinance specifying land use, densities, performance standards, and ongoing general obligations of occupants of the PUD. Such ordinance shall create a zoning district that is specific to the property for which the PUD was applied, and shall be designated in such a way as to be able to mark the official zoning map to identify the PUD ordinance. The PUD ordinance shall also designate that such property is thereby rezoned to the PUD district as adopted.

e. Up-to-date title evidence for the subject property in a form acceptable to the city shall be provided as part of the application for the PUD final plat.

f. Developer shall provide warranty deeds for property being dedicated to the city for all parks, outlots, etc., free from all liens and encumbrances except as otherwise waived by the City Council.

g. Developer shall provide all easement dedication documents for easements not shown on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easement by existing encumbrancers of the property.

h. Association declarations and/or other private covenant documents or easements necessary to implement and maintain the PUD as approved by the city.

4. PUD final stage and final plat review. The application for PUD final stage and final plat shall be considered by the City Council at a public meeting, following a review and report by the Community Development Department. Approval of the PUD final stage and final plat shall be by simple majority vote of the City Council, except where State law may specifically require a super majority.

5. Final PUD approval shall occur by adoption of a rezoning ordinance for the subject property specifying the uses, standards, and other requirements of said PUD zoning district. Such ordinance shall include an effective date clause which may delay the effective date of the ordinance until such time as the applicant has met each of the conditions of approval required by the City Council, in addition to other requirements including publication. No approvals are valid, and no permits may be issued, until the ordinance takes effect. If the final PUD is not approved by the City Council, or the applicant fails to meet the conditions as described, the ordinance shall not take effect, and the subject property shall retain its previous zoning designation.

(10) PUD amendments. Approved PUDs may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer. At such a time, the applicant shall make an application to the city for a PUD amendment. All such amendments will be processed as one of the following:

(a) Administrative amendment. The Community Development Department may approve minor changes in the location, placement, and height of buildings if such changes are required by engineering or other circumstances, provided the conform to the review criteria applied by the Planning Commission and City Council, and are consistent with all requirements of the PUD ordinance. Under no circumstances shall an

administrative amendment allow additional stories to buildings, additional lots, or changes to designated uses established as part of the PUD. An administrative amendment shall be memorialized via letter signed by the Community Development Director and recorded against the PUD property.

(b) PUD Adjustment. An adjustment to a PUD may be made through review and approval by a simple majority vote of the City Council with or without referral to the Planning Commission. For a PUD adjustment, the applicant shall follow the procedures and requirements of the PUD final stage as identified in this chapter. A PUD adjustment shall be memorialized with an amendment to the PUD development agreement, executed by the city and applicant, and recorded against the PUD property. To qualify for this review, the minor adjustment shall not:

1. Eliminate, diminish or be disruptive to the preservation and protection of sensitive site features.

2. Eliminate, diminish or compromise the high quality of site planning, design, landscaping or building materials.

3. Alter significantly the location of buildings, parking areas or roads.

4. Increase or decrease the number of residential dwelling units by more than 5%.

5. Increase the gross floor area of non-residential buildings by more than 3% or increase the gross floor area of any individual building by more than 5% (residential lots not guided for specific structure sizes are excluded from this requirement).

6. Increase the number of stories of any building.

7. Decrease the amount of open space or alter it in such a way as to change its original design or intended function or use.

8. Create non-compliance with any condition attached to the approval of the final PUD plan.

(c) PUD amendment. Any change not qualifying for an administrative amendment or a PUD adjustment shall require a PUD amendment. An application to amend a PUD shall be administered in the same manner as that required for a PUD development stage and preliminary plat.

(11) PUD cancellation. A PUD shall only be cancelled and revoked upon the City Council adopting an ordinance rescinding the ordinance approving the PUD. Cancellation of a PUD shall include findings that demonstrate that the PUD is inconsistent with the Comprehensive Plan or other application land use regulations, threatens public safety, health, or welfare, or other applicable findings in accordance with law.

(12) Administration. In general, the following rules shall apply to all PUDs:

(a) Rules and regulations. No requirement outlined in the PUD process shall restrict the City Council from taking action on an application if necessary to meet state mandated time deadlines;

(b) Preconstruction. No building permit shall be granted for any building on land for which a PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed PUD plan.

(c) Effect on conveyed property. In the event any real property in the approved PUD agreement is conveyed in total, or in part, the buyers thereof shall be bound by the provisions of the approved final PUD plan constituting a part thereof as well as the PUD zoning ordinance; provided, however, that nothing herein shall be construed to create nonconforming lots, building sites, buildings or uses by virtue of any such conveyance of a lot, building site, building or part of the development created pursuant to and in conformance with the approved PUD.

(Ord. 770, passed 2-28-2022; Ord. 781, passed 7-25-2022; Ord. 786, passed 9-26-2022; Ord. 799, passed 2-27-2023)

ZONING DISTRICTS

§ 153.040 GENERAL PROVISIONS.

(A) Adoption of zoning map. The map entitled City of Monticello Zoning Map, January 24, 2011, hereinafter referred to as the “zoning map,” and all explanatory matters thereon, are hereby adopted and made a part of this chapter. Questions concerning a zoning designation or boundaries of a zoning district shown on the zoning map shall be resolved by referring back to the previously adopted ordinances delimiting the districts and boundaries.

(B) Types of zoning districts. Land within the city is generally classified by this chapter to be within one of a number of base zoning districts. Land within any base zoning district may also be classified into one or more overlay zoning districts, in which case regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise.

(C) District boundaries.

(1) The boundaries of the districts are established as shown on the zoning map. Unless otherwise indicated on the zoning map, the district boundaries are parcel lines or the corporate limit lines, as they existed at the time of the enactment of this chapter.

(2) New base district lines or rezoning lines shall follow parcel lines.

(D) Zoning classifications for newly annexed property. Any land annexed to the city in the future shall initially be placed in the A-O Agricultural Open District, unless placed in another district by action of the City Council after recommendation of the Planning Commission.

§ 153.041 DISTRICTS ESTABLISHED.

(A) Establishment of base districts. Table 3-1, Base Zoning Districts, sets out the base residential, business, and industrial zoning districts established by this chapter.

TABLE 3-1: BASE ZONING DISTRICTS

Abbreviation

District Name

TABLE 3-1: BASE ZONING DISTRICTS

Abbreviation

District Name

Residential Districts

A-O

Agricultural Open District

R-A

Residential Amenities District

R-1

Single-family Residential District

R-2

Single and Two-family Residential District

T-N

Traditional Neighborhood District

R-3

Medium Density Residential District

R-4

Medium-High Residential District

M-H

Mobile & Manufactured Home Park District

Business Districts

B-1

Neighborhood Business District

B-2

Limited Business District

B-3

Highway Business District

B-4

Regional Business District

CCD

Central Community District

Industrial Districts

IBC

Industrial and Business Campus District

I-1

Light Industrial District

I-2

Heavy Industrial District

(B) Establishment of overlay districts. Table 3-2, Overlay Zoning Districts, sets out the overlay zoning districts established by this chapter.

TABLE 3-2: OVERLAY ZONING DISTRICTS

Abbreviation

District Name

TABLE 3-2: OVERLAY ZONING DISTRICTS

Abbreviation

District Name

FP

Floodplain District

W

Wetland District

WS

Wild and Scenic Recreational River District

SH

Shoreland District

FBS

Freeway Bonus Sign District

DW

Drinking Water Supply Management Area District

SU

Special Use Overlay District

(C) Classification of districts. Land shall be classified or reclassified into a base or overlay zoning district only in accordance with the procedures and requirements set forth in § 153.028(B), Zoning Ordinance Text and Zoning Map Amendments.

(D) Organization of base zoning district regulations. Section 153.042 establishes the general purposes of each base zoning district along with the physical standards governing lots and structures within each district. Each of these divisions has a common structure consisting of a purpose statement, applicable size and dimensional standards for lots, an example of the typical lot configuration found in the district, and a hypothetical graphic depicting the districts physical regulations. Uses allowed in each district can be found in §§ 153.090 through 153.093. Finishing standards for lots

(i.e. landscaping standards, parking requirements, etc) can be found in §§ 153.060 through 153.072.

(E) Diagrams and photographs for illustrative purposes only. The example lot configurations, and hypothetical graphics of physical regulations are for illustrative purposes only, and may not be consistent with all listed requirements. In all cases, the dimensional requirement text of this chapter shall control.

(Ord. 799, passed 2-27-2023)

§ 153.042 COMMON DISTRICT REQUIREMENTS.

The following regulations shall apply in all base zoning districts.

(A) Building within public easements prohibited. No building or structure shall be placed within an easement dedicated for a public purpose unless expressly authorized by a variance issued in accordance with § 153.028(C) or a license or encroachment agreement issued by the Community Development Department.

(B) Outlots. No building permit or grading permit can be issued for a parcel of land designated in a plat as an outlot unless specifically authorized by the City Council.

(C) Principal buildings. Except as may be permitted by an approved planned unit development, not more than one principal building shall be located on a lot.

(D) Common yard and height requirements.

(1) In general.

(a) Unless otherwise authorized by variance or PUD, no lot, yard, or other open space shall be reduced in area or dimension so as to make such lot, yard, or open space less than the minimum required by this chapter; and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.

(b) A yard or other open area required about a building shall not be included as part of a yard or other open space for another building.

(2) Allowable yard encroachments.

(a) The following features may encroach into required yards:

1. Fences and walls that meet the standards in § 153.062, may encroach into a required yard, but shall be subject to corner visibility

requirements, and shall not be placed within public rights-of-way, conservation easements unless specifically permitted by the easement.

2. Walkways, patios, ramps, stairs, paved areas, and other accessory structures less than 30 inches above grade, and all landscape plantings are exempted from yard requirements except as may be specifically required by this chapter, but are subject to corner visibility requirements, and shall not be placed within conservation easements unless specifically permitted by the easement.

3. In rear and side yards: recreational and laundry drying equipment, arbors and trellises, balconies, decks, and air conditioning subject to the following conditions:

a. Setback requirements of environmental protection districts shall remain applicable.

b. A side yard setback of six feet shall be maintained.

c. A setback of 20 feet shall be maintained from property lines abutting public rights-of-way.

d. A rear yard setback of six feet shall be maintained.

e. No encroachment shall be permitted within an existing or required easement.

4. Appurtenances:

a. Appurtenances are permitted to encroach into a required front or rear yard setback up to six feet.

b. Appurtenances are permitted to encroach into a required side yard setback up to three feet.

c. Railings on landing places or porches extending into a required side yard shall not exceed three feet, six inches in height.

d. Appurtenances shall not be located within existing or required easements.

(b) Corner visibility (see Figure 3-1).

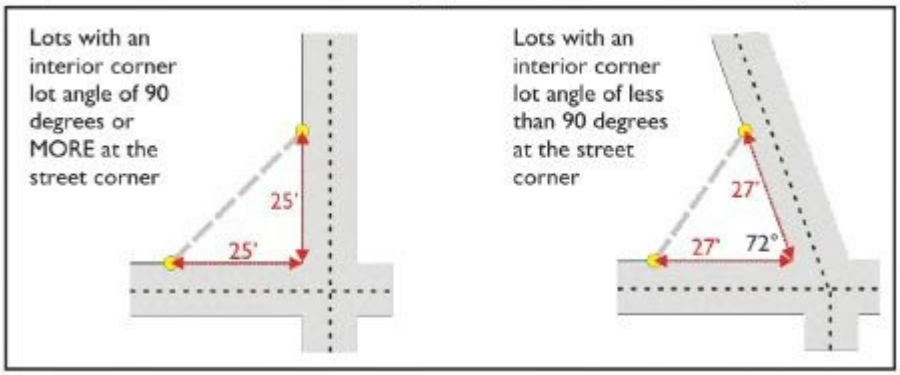
1. Corner lots shall preserve areas necessary for corner visibility by limiting the height of fences, walls, and all other obstructions to a maximum of three feet above grade in the following areas:

a. For lots with an interior corner lot angle of 90 degrees or more at a street or railway corner, the protected corner area is defined by a triangle created by the two corner lot lines and an imaginary line between the corner lot lines at 25 feet from the corner on each property lot line.

b. For lots with an interior angle of less than 90 degrees at a street or railway corner, the protected corner area is defined by a triangle created by the two corner lot lines and drawing an imaginary line between the corner lot lines 25 feet from the corner on each property lot line plus one foot for every ten degrees or fraction thereof less than 90 degrees.

2. Corner visibility standards do not apply to United States mailboxes, police and fire alarm boxes, public utility poles, street name markers, official traffic signs and control devices, and fire hydrants.

Figure 3-1: Corner Visibility (Protected Corner Area)



(3) Height requirements.

(a) In general. The total height of any structure shall not exceed the maximum height limit established for the applicable zoning district unless expressly stated otherwise in this chapter.

(b) Exceptions. Height limits shall not apply to chimneys, church spires, belfries, cooling towers, cupolas and domes which do not contain useable space, elevator penthouses, fire escapes or roof access stairways, flag poles, mechanical equipment required to operate and maintain the building, monuments, parapet walls extending not more than three feet above the limiting height of the building, rooftop dish antennas, skylights, water towers, wind electrical generators, telecommunication towers or similar appurtenances, provided:

1. The appurtenance does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;

2. The appurtenance does not extend more than 25 feet above the maximum permitted building height, except as specifically allowed by this chapter;

3. The appurtenance does not exceed a maximum height of 200 feet above grade;

4. The appurtenance is not constructed for the purpose of providing additional floor area in the building; and

5. The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in this chapter.

(Ord. 799, passed 2-27-2023)

§ 153.043 RESIDENTIAL BASE ZONING DISTRICTS.

(A) General purpose. The residential base zoning districts established in this section are intended to provide a variety of housing options in a comfortable, healthy, safe, and pleasant environment in which to live and recreate at a neighborhood level. More specifically, they are intended to:

(1) Promote strong residential neighborhoods with a sense of connection to the community;

(2) Foster citizen involvement in the community, interaction between neighbors and neighborhood oriented support systems;

(3) Provide a range of housing choices and affordability through varying housing densities, types and designs including accessory dwelling units;

(4) Seek quality over quantity in new residential growth;

(5) Maintain a connection to the natural environment by incorporation of natural characteristics into the development setting.

(B) Standards applicable to all residential base zoning districts.

(1) Zero side lot line development. Residential unit lots containing duplexes or townhouses may be subdivided along the common wall in a “zero lot line” arrangement, provided:

(a) The combined area of the base lot and individual unit lots contains the required amount of lot area per unit as prescribed elsewhere in this chapter;

(b) Unit lots shall meet all required setbacks from the boundaries of the base lot;

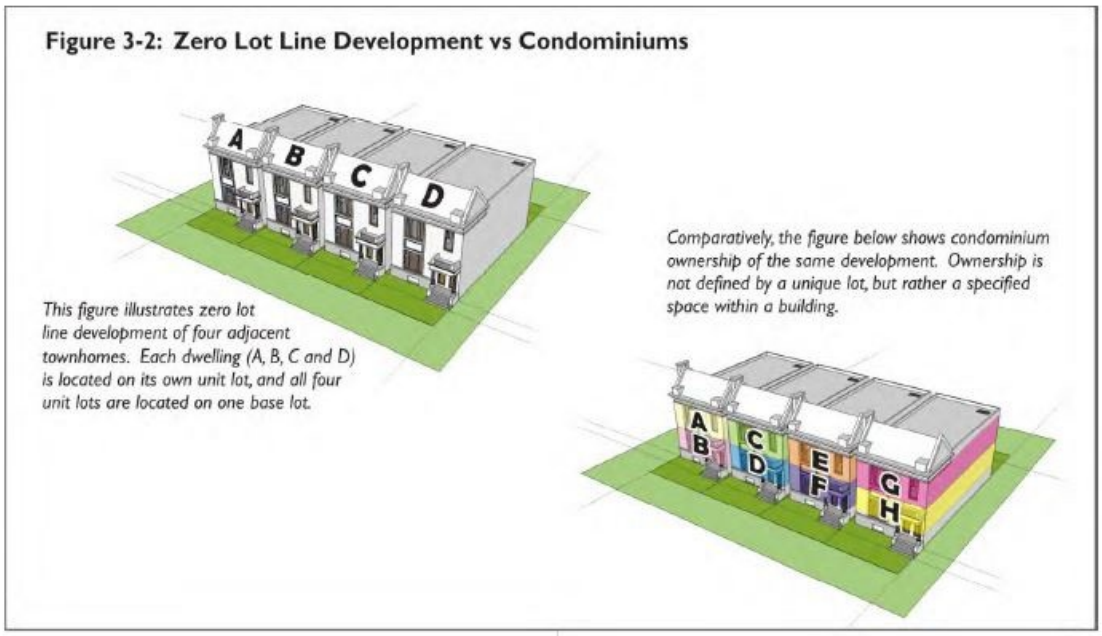
(c) Any shared wall facing on a zero side lot line is a structural wall capable of providing protection from fire, noise and visual encroachment.

(2) Condominiums. Residential lots of non-single-family structures may be divided for the purpose of condominium ownership provided that:

(a) The principal structure containing the housing units shall meet the setback distances of the applicable zoning district.

(b) Each condominium unit shall have the minimum lot area for the type of housing unit and usable open space as specified in the area and building size regulations of this chapter.

(c) Condominiums shall be designed to meet the International Building Code as adopted in the Monticello City Code.



(C) Agricultural Open Space District (A-O). The purpose of the "A-O" Agricultural-Open Space District is to provide suitable areas of the city for the retention and utilization of open space and/or agricultural uses, prevent scattered non-farm uses from developing improperly, and to secure economy in government expenditures for public utilities and service.

(1) Lot area minimum: two acres.

(2) Lot width minimum: 200 feet.

Typical A-O Lot Configuration

TABLE 3-3: A-O DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/ft.)

Minimum Floor Area (sq. ft.)

Minimum Building Width (ft.)

Minimum Roof Pitch & Soffit (vertical rise/horizontal run)

Front

Interior

Side

Street

Side

Rear

Principal Structures

50

30

30

50

NA

1000

20

NA

Accessory Structures

[1]

6

30

6

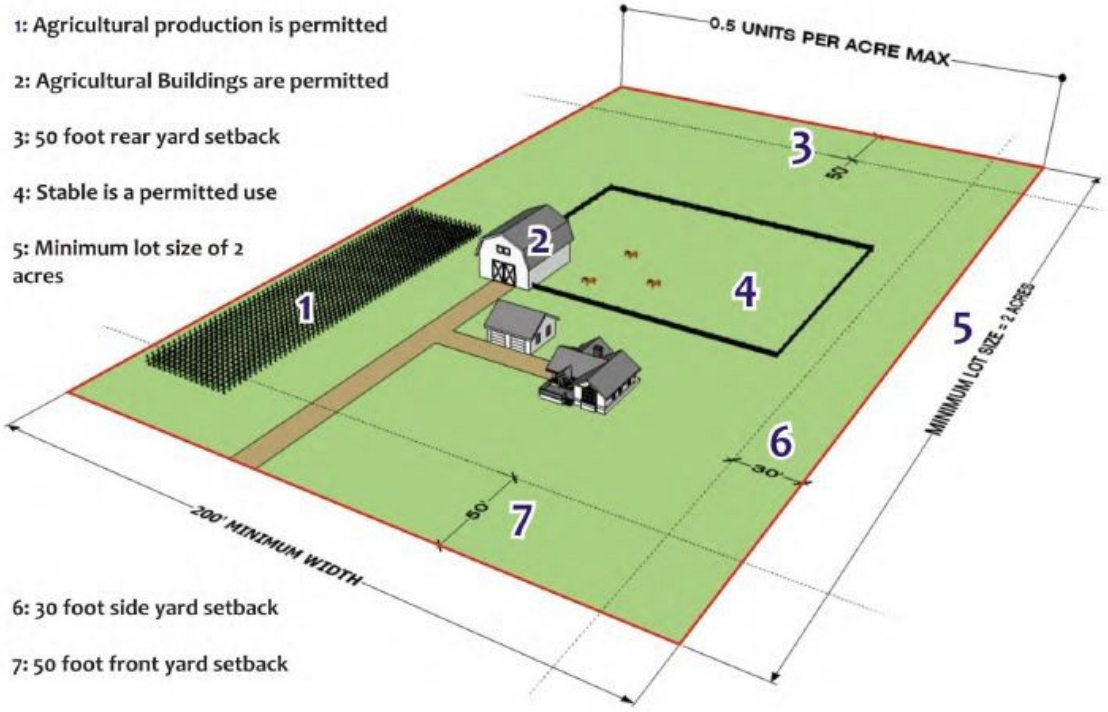
15

NA

NA

NA

[1]: Accessory structures shall not be located beyond the front building line established by the principal structure.



(D) Residential Amenities District (R-A). The purpose of the "R-A" Residential Amenities District is to provide move up housing in the form of low density, single-family, detached residential dwelling units and directly related compleme ntary uses in areas of high natural residential amenities including such conditions as woodlands, wetlands, and significant views.

(1) Base lot area.

(a) Minimum: 14,000 sq. ft.

(b) Average: 16,000 sq. ft. (at least 40% of lots created through subdivision shall exceed 15,000 sq. ft. in size).

(2) Base lot width.

(a) Minimum: 90 ft.

(b) Average: 100 ft. (at least 40% of lots created through subdivision shall exceed 100 ft. in width).

Typical R-A Lot Configuration

TABLE 3-4: R-A DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/f t.)

Minimum Floor Area (sq. ft.)

Minimu m Building Width (ft.)

Minimum Roof Pitch & Soffit (vertical rise/horizon tal run)

Fro nt

Interio r

Side

Stree t

Side

Rear

Single- Family Building

35

10

[1]

20

30

[2]

2.5 stories

35 feet

Minimum foundation sizes by home type [3]

2000

finishable [4]

24

6 in./12 in.

no minimum soffit

[5]

[1]: For interior lots in R-1 and R-A districts, attached accessory uses shall be setback no less than 6 feet from the side yard property line, provided that the sum of both side yard setbacks shall be a minimum of 20 feet.

[2]: The required rear yard shall consist of a space at least 30-feet in depth across the entire width of the lot that is exclusive of wetlands, ponds, or slopes greater than 12%.

[3]: 2,400 square foot gross floor area excluding a basement or cellar for two story homes and a 1,600 square foot foundation for multi-level, rambler and split entry homes.

[4]: Finishable square footage is exclusive of required attached garage floor area.

[5]: Roof gables, shed roofs, dormers and porch roofs to allow for a lower pitch to incorporate as an architectural feature, provided no such exempted roof areas shall comprise any more than 20% of the total horizontal roof area of a single-family structure as measured from a bird's-eye plan view.

Accessory Structures and Uses

- An attached garage shall be included with all principal residential structures in the R-A district.

- See § 153.092(B) for all general standards and limitations on accessory structures.

- The minimum floor area for the required attached garage shall be 700 sq. ft.

- No portion of any garage space may be more than five feet closer to the street than the front building line of the principal use (including porch).

- See footnote [1] above as related to setbacks for attached accessory uses on interior lots.

Other Regulations to Consult (not all inclusive)

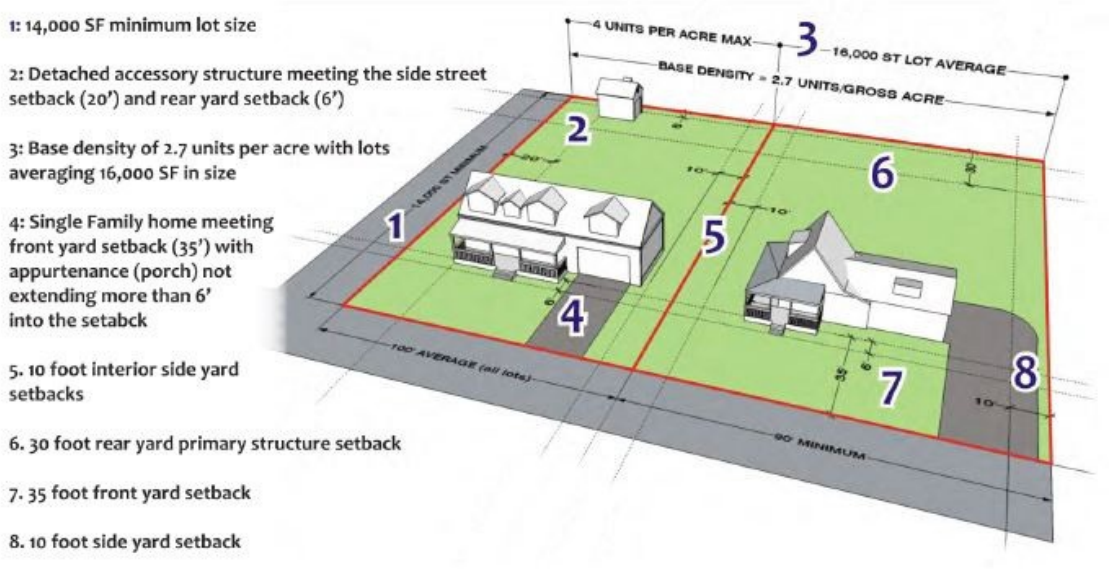
- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

- § 153.070, Building Materials

- § 153.067, Off-Street Parking

- § 153.060, Landscaping and Screening Standards



(E) Single- Family Residential District (R- 1). The purpose of the "R- 1" Single-Family Residential District is to provide for low density, single-family, detached residential dwelling units and directly related complementary uses.

(1) Base lot area.

(a) Minimum: 10,000 sq. ft.

(b) Average: 12,000 sq. ft. (at least 40% of lots created through subdivision shall exceed 12,000 sq. ft. in size).

(2) Base lot width.

(a) Minimum: 70 ft.

(b) Average: 80 ft. (at least 40% of lots created through subdivision shall exceed 80 ft. in width).

Typical R-1 Lot Configuration

TABLE 3-5: R-1 DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/ft.)

Minimum Floor Area (sq. ft.)

Minimu m Building Width (ft.)

Minimum Roof Pitch & Soffit (vertical rise/horizon tal run)

Front

Interior

Side

Street

Side

Rear

Single- Family Building

30

10 [1] and [2]

20

30

2.5 stories

35 feet

1,050 foundation/

2,000 finishable [4]

24

5 in./12 in.

no minimum soffit [5]

[1]: For interior lots in R-1 and R-A districts, attached accessory uses shall be setback no less than 6 feet from the side yard property line, provided that the sum of both side yard setbacks shall be a minimum of 20 feet.

[2]: Interior side yard setbacks for single-family homes on lots of record with a lot width 66 feet or less in the Original Plat of Monticello and Lower Monticello shall be at least six feet.

[3]: The required rear yard shall consist of a space at least 30-feet in depth across the entire width of the lot that is exclusive of wetlands, ponds, or slopes greater than 12%.

[4]: Finishable square footage is exclusive of required attached garage floor area.

[5]: Roof gables, shed roofs, dormers and porch roofs to allow for a lower pitch to incorporate as an architectural feature, provided no such exempted roof areas shall comprise any more than 20% of the total horizontal roof area of a single-family structure as measured from a bird's-eye plan view.

Accessory Structure s and Uses

- An attached garage shall be included with all principal residential structures in the R-1 district.

- See § 153.092(B) for all general standards and limitations on accessory structures.

- The minimum floor area for the required attached garage shall be 700 sq. ft.

- No portion of any garage space may be more than five feet closer to the street than the front building line of the principal use (including porch).

- See footnote [1] above as related to setbacks for attached accessory uses on interior lots.

Other Regulations to Consult (not all inclusive)

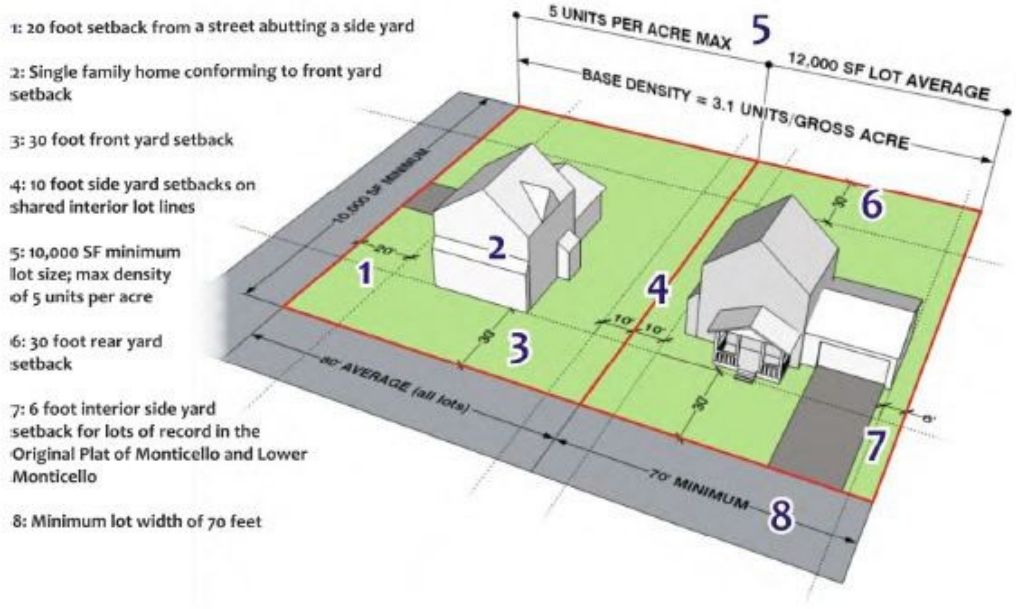
- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

- § 153.070, Building Materials

- § 153.067, Off-Street Parking

- § 153.060, Landscaping and Screening Standards



(F) Single and Two- Family Resident ial District (R-2). The purpose of the "R-2" Single and Two-Fa mily Resident ial District is to provide for low

to moderate density one and two unit dwellings and directly related complementary uses.

(1) Base density.

Unit Type

Minimum Lot Area/Unit

Single-family

10,000 sq. ft.

Duplex/two-family

7,000 sq. ft.

Townhome*

7,000 sq. ft.

Multi-family (3-4 units)*

5,500 sq. ft.

*By conditional use permit only. See also multi-family dwelling unit standards.

(3) Minimum lot width.

Lot Width

Typical R-2 Lot Configuration

TABLE 3-6: R-2 DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories /

ft.)

Minimum Floor Area (sq. ft.)

Minimum Finished Floor Area (sq. ft.)

[3]

Minimum Building Width (ft.)

Minimum Pitch & Soffit (vertical rise/

horizontal run)

Front

Interior

Side

Street

Side

Rear

TABLE 3-6: R-2 DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories /

ft.)

Minimum Floor Area (sq. ft.)

Minimum Finished Floor Area (sq. ft.)

[3]

Minimum Building Width (ft.)

Minimum Pitch & Soffit (vertical rise/

horizontal run)

Front

Interior

Side

Street

Side

Rear

Single- Family

30

10 [1] and [2]

20

30

2.5 stories

35 feet

1,050 foundatio n/

1,800 finishable [3]

Minimum finished square footage must be equivalen t to the principal use unit foundatio n size

24

5 in./12 in.

no minimum soffit [4]

Duplex

30

10 [2]

20

30

2.5 stories

35 feet

1,050 foundatio n

1,400 finishable

24

Townhouse Multi- family

Building

30

10

20

30

2.5 stories

35 feet

24

[1]: For the Original Plat of Monticello and Lower Monticello, where adjacent structures (excluding accessory buildings within same block) have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure.

[2]: Interior side yard setbacks for single-family homes on lots of record with a lot width 66 feet or less in the Original Plat of Monticello and Lower Monticello shall be at least six feet.

[3]: Finishable and finished square footage is exclusive of required attached garage floor area

[4]: Roof gables, shed roofs, dormers and porch roofs to allow for a lower pitch to incorporate as an architectural feature, provided no such exempted roof areas shall comprise any more than 20% of the total horizontal roof area of a structure as measured from a bird’s eye plan view.

Accessory Structure s and Uses

- An attached garage shall be included with all principal residential structures in the R-1 district.

- See § 153.092(B) for all general standards and limitations on accessory structures.

-The minimum floor area for all required attached garages shall be 450 sq. ft.

- No portion of any attached garage may be more than 10 feet closer to the street that the principal structure.

- Except for single-family buildings, any driveway leading directly to an attached garage may not exceed 18"in width at the front yard property line.

Other Regulations to Consult (not all inclusive)

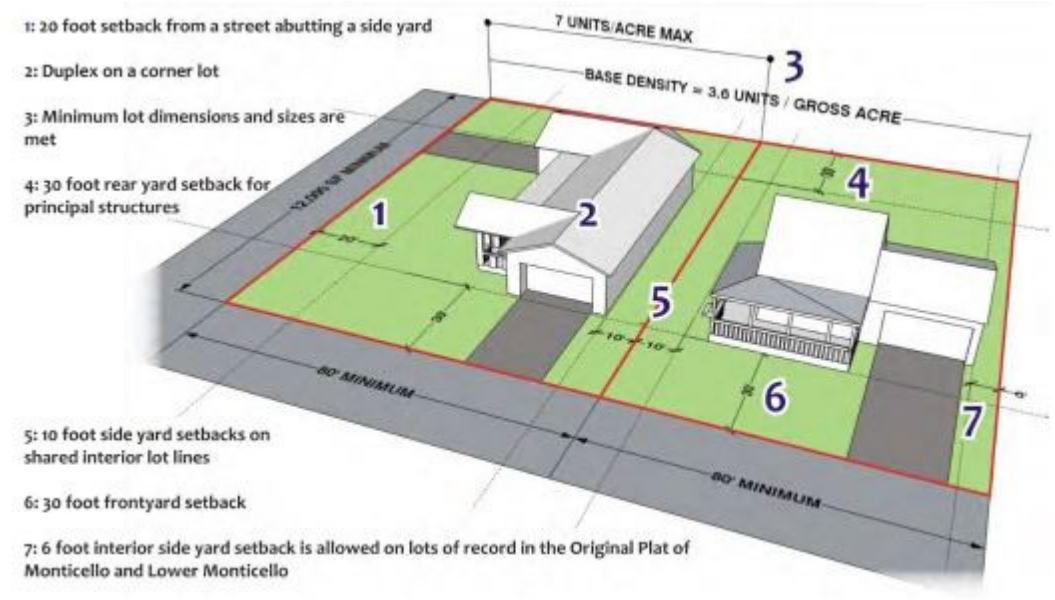
- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

- § 153.070, Building Materials

- § 153.067, Off-Street Parking

- § 153.060, Landscaping and Screening Standards



(G) Traditional Neighborhood Residential District (T- N). The purpose of the "T-N" Traditional Neighborhood Residential District is to provide for medium density, single-family, detached residential dwelling units and directly related complementary uses.

(1) Minimum lot area: 5,500 sq. ft.

(2) Minimum lot width: 55 ft.

(3) Minimum lot depth: 100 ft.

Typical T-N Lot Configuration

TABLE 3-7: T-N DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/f t.)

Minimum Floor Area (sq. ft.)

Minimu m Building Width (ft.)

Minimum Pitch & Soffit (vertical rise/horizon tal run)

Fro nt [1]

Interior

Side

Stree t

Side

Rear

TABLE 3-7: T-N DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/f t.)

Minimum Floor Area (sq. ft.)

Minimu m Building Width (ft.)

Minimum Pitch & Soffit (vertical rise/horizon tal run)

Fro nt [1]

Interior

Side

Stree t

Side

Rear

Single- Family Building

25[1]

10

20

30 [2]

2.5 stories

35 feet

1,050 foundation/

2,000 finishable [2]

24

5 in./12 in.

no minimum soffit [5]

[1]: The minimum width of the dimension of the principal building living area across the front building line shall be no less than 12 ft., which may include a usable porch of at least 6 ft. in depth. The maximum building line of the attached garage may be no more than 20 ft. across the front building line.

[2]: Finishable square footage is exclusive of required attached accessory space garage floor area.

Accessor y Structure s and Uses

- An attached garage shall be included with all principal residential structures in the T-N district.

- See § 153.092(B) for all general standards and limitations on accessory structures.

- The minimum floor area for the required attached garage shall be 480 sq. ft.

- For front-loaded attached garages, no portion of any garage space may be more than five feet closer to the street than the front building line of the principal use (including porch).

- No private driveway leading to an accessory structure may exceed 24 ft. in width at the front yard property line. Driveways shall be offset and separated to maximize on-street parking capacity.

Other Regulations to Consult (not all inclusive)

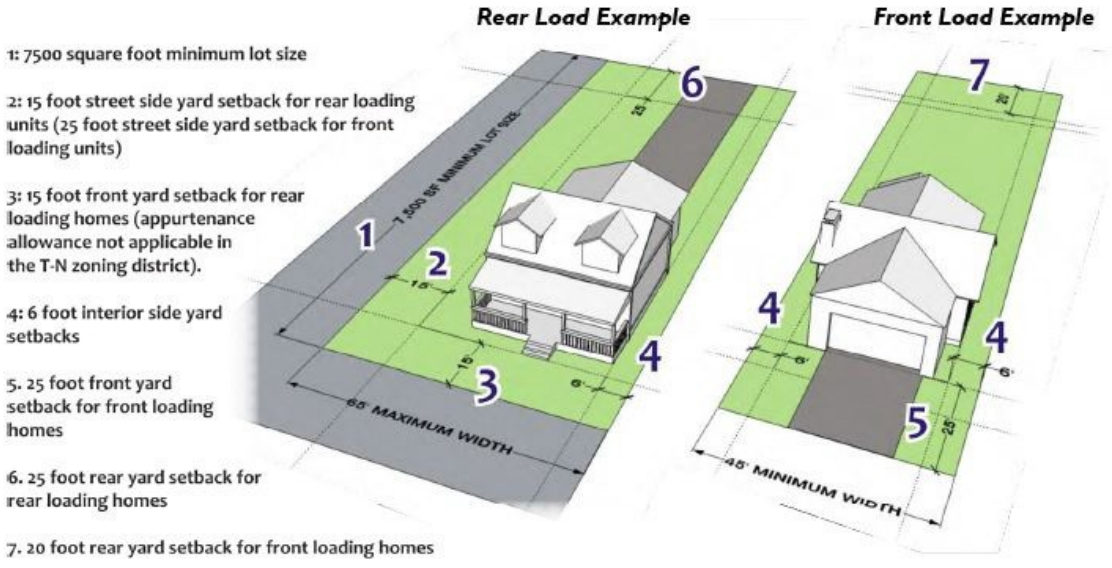
- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

- § 153.070, Building Materials

- § 153.067, Off-Street Parking

- § 153.060, Landscapin g and Screening Standards



(H) Medium Density Residence District (R-3). The purpose of the “R-3” Medium Density Residential District is to provide for medium density housing in multiple-family structures ranging up to and including 12 units and directly related, complementary uses.

(1) Base lot area.

(a) Minimum townhouse: 20,000 sq. ft.

(b) Minimum multi-family: 30,000 sq. ft.

(2) Base lot width. Minimum: 80 ft.

Typical R-3 Lot Configuration

TABLE 3-8: R-3 DEVELOPMENT STANDARDS

PUD Options for Multi-Family Buildings

R-3 District Townhouse (4-10 units/building)

R-3 District Multi-Family (5-12 units/building)

TABLE 3-8: R-3 DEVELOPMENT STANDARDS

PUD Options for Multi-Family Buildings

R-3 District Townhouse (4-10 units/building)

R-3 District Multi-Family (5-12 units/building)

Base Lot Area (minimum)

20,000 sf.

30,000 sf.

Base Lot Width (minimum)

80 ft.

80 ft.

Gross Density

3-7 du/acre

8-12 du/acre

Max Density w/o PUD

4.0 du/acre

8.5 du/acre

Net lot area per du

4,500 sf/du, maximum

3,500 sf/du, maximum

Front setback

30 feet

40 feet

Corner side setback

25 feet

30 feet

Interior side setback

20 feet

20 feet

Rear setback to building

30 feet

40 feet

Clear open space setback from ROW

25 feet

30 feet

Clear open space setback from Property Line

10 feet

30 feet

Buffer Req. to Single-Family

B buffer

B buffer

Common open space per du

NA

500 sf/du

Landscaping

16 ACI/acre +2 shrubs per 10 feet bldg. perimeter

16 ACI/acre +2 shrubs per 10 feet bldg. perimeter

Parking requirements

1.2 spaces/bedroom, with 1 space/bedroom enclosed

1.2 spaces/bedroom, with 1 space/bedroom enclosed

Architecture

20% street min frontage covered with enhanced materials

20% street min frontage covered with enhanced materials

Roofs

5:12 pitch or roofline or building line articulation, including flat and/or varied rooflines, parapets, canopies or other similar features which increase architectural interest and variability.

5:12 pitch or roofline or building line articulation, including flat and/or varied rooflines, parapets, canopies or other similar features which increase architectural interest and variability.

Unit square feet

1,000 sf. finished floor area per unit, minimum

Average 1,000 sf. finished floor area per unit, minimum

Garages

Attached

Enclosed, may be detached

TABLE 3-8: R-3 DEVELOPMENT STANDARDS

PUD Options for Multi-Family Buildings

R-3 District Townhouse (4-10 units/building)

R-3 District Multi-Family (5 -12 units/building)

TABLE 3-8: R-3 DEVELOPMENT STANDARDS

PUD Options for Multi-Family Buildings

R-3 District Townhouse (4-10 units/building)

R-3 District Multi-Family (5 -12 units/building)

Garage Setback

30 feet from ROW (35 feet from curb of private street)

May not access street directly – must be served by interior driveway

Garage Doors

Maximum 16 feet width facing street. No smooth panel doors.

No smooth panel doors – detached buildings must match principal building materials and include architectural fenestration on sides facing residentially zoned property or public right- of-way

Landscaping

Special landscape features including water features, recreational structures, patios, etc.

Increased landscape quantities and/or Sizes beyond code minimums; Special landscape features including water features, recreational structures, patios, etc.

Open Space

--

Increased open space areas per unit beyond code minimums of 10% or more

Parking

--

All required garage parking attached to principal building

Building Materials

Increased use of stone, brick beyond front, or on other exterior walls

Increased use of stone, brick beyond front, or on other exterior walls

Architecture

Extensive use of ornamental features, building and/or roofline articulation, fenestration and building wall undulation atypical of other buildings in similar zoning districts

Extensive use of ornamental features, building and/or roofline articulation, fenestration and building wall undulation atypical of other buildings in similar zoning districts

Site Work

Use of decorative paving materials in parking, sidewalks, etc.; Extensive use of ornamental site lighting or similar features.

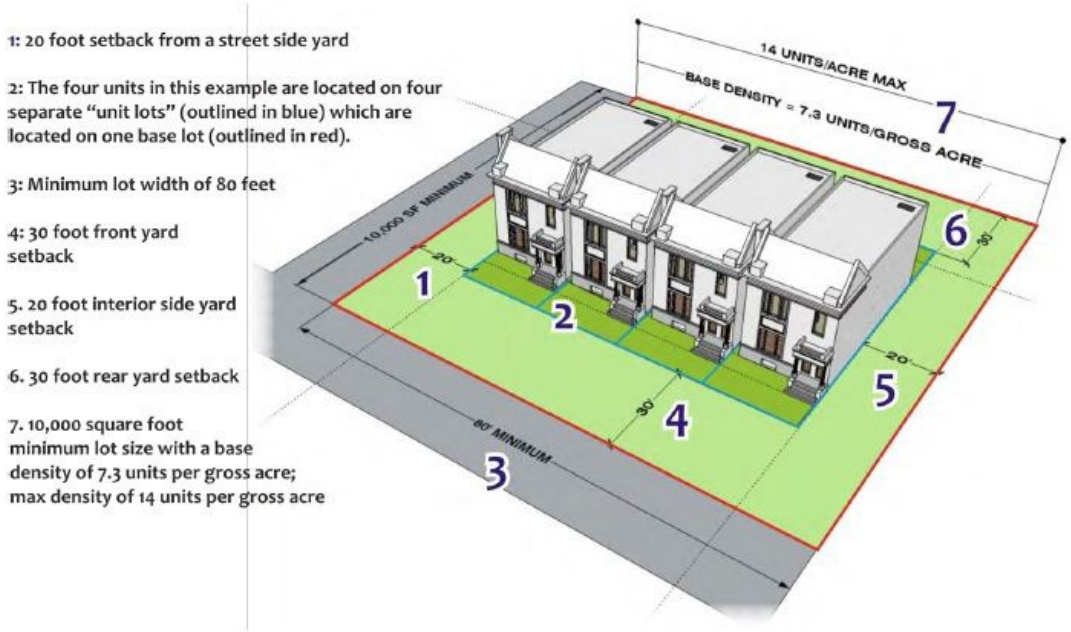
Use of decorative paving materials in parking, sidewalks, etc.;

Extensive use of ornamental site lighting or similar features.

Housing for Seniors restricted to 55 years of age or more

Accommodations to design and density through PUD process only

Accommodations to design and density through PUD process only



(I) Medium-High Density Residence District (R-4). The purpose of the “R-4”, Medium- High Density Residential District is to provide for medium to high density housing in multiple- family structures of 13 or more units per building, and at densities of between ten and 25 units per acre. The district is intended to establish higher density residential opportunities in areas appropriate for such housing, to be determined by the city on a case by case basis. This district is intended to provide exclusively multiple-family housing as defined in this chapter, as opposed to lower density housing types such as townhouses, two-family homes, or single family homes. The City of Monticello shall zone land to the R-4 District only when, in its sole discretion, all aspects of the property support the potential uses of the R-4 District, including location, private and public services, and compatibility with existing and future land uses in the area. In making a determination as to the suitability of a site for R-4 rezoning, the city will prioritize the following site and area factors:

(1) Replacement land uses. R-4 zoning fits the following zoning categories and circumstances:

(a) Land already zoned for R-3 Medium Density Residential District.

(b) Land currently zoned for commercial uses, but which would not be considered "prime" commercial and critical to "Successful Commercial Centers and Corridors" consistent with the City's 2040 Vision + Plan.

(2) Proximity to other residential neighborhoods.

(a) R-4 zoning may be allowed in proximity to other medium to high density residential areas, however the nature and concentration of existing multi-family structures shall be carefully considered to avoid an over concentration of these uses.

(b) R-4 zoning may be allowed in proximity to lower residential uses, if it is determined that the high density site can address the site and area factors provided here.

(3) Architectural compatibility and building massing.

(a) In the vicinity of lower density residential areas, R-4 District buildings need to be lower profile with regards to size and mass, or need to be screened or buffered by distance and natural features.

(4) Requirement for adequate public facilities. High density residential development shall be located to provide for the following essential services and amenities:

(a) Access to public parks, pathways, and open space, without overburdening them. R-4 development may be required to provide additional facilities to meet the city's open space planning policies.

(b) Connection to public utilities.

(c) Access to major streets, or at the very minimum, avoidance of traffic generation that would utilize local streets in lower density residential areas.

(d) Proximity to commercial and/or medical services.

(5) Minimum and maximum density: ten units minimum – 25 dwelling units maximum per acre.

TABLE 3-9: R-4 DEVELOPMENT STANDARDS

TABLE 3-9: R-4 DEVELOPMENT STANDARDS

PUD Options for Multi-Family Buildings

R-4 District Multi-Family (13+ units/building)

Base Lot Area

30,000 sf.

Gross Density

10-25 du/acre

Max Density w/o PUD

NA

Net lot area per du

Max 1,750 sf/du

Front setback

100 feet

Corner side setback

40 feet

Interior side setback

30 feet

Rear setback to building

40 feet

Clear open space setback from ROW

60 feet

Clear open space setback from Property Line

40 feet - no more than 50% of any yard facing a street covered with parking/drive aisles

Buffer Req. to Single-family

C buffer

Common open space per du

500 sf/du

Landscaping

2 ACI/ 2,500 sf. open space + 4 shrubs /10 feet bldg. perimeter

Parking requirements

1.2 spaces/bedroom, with max 1.1 space/du uncovered

Architecture

20% street min frontage covered with enhanced materials, horizontal siding of steel or cement-board only (no vinyl or aluminum)

Roofs

5:12 pitch, plus roof ridge line articulation of 3 feet min. or roofline or building line articulation, including flat and/or varied rooflines, parapets, canopies or other similar features which increase architectural interest and variability.

Unit square feet

800 sf. minimum finished floor area per unit average, with no more than 10% of the units as studio units

Garages

Attached or Underground Detached accessory garages allowed only after base requirements are met; requires authorization through Conditional Use Permit

Garage Setback

May not access street directly – must be served by interior driveway

Garage Doors

Must include glass and decorative panels if visible from public street or adjoining residentially zoned property

Landscaping

Increased landscape quantities and/or sizes beyond code minimums; Special landscape features including water features, recreational structures, patios, etc

Open Space

Increased open space areas per unit beyond code minimums of 10% or more

Parking

All required garage parking underground

Building Materials

Increased use of stone, brick beyond front, or on other exterior walls

Architecture

Extensive use of ornamental features, building and/or roofline articulation, fenestration and building wall undulation atypical of other buildings in similar zoning districts

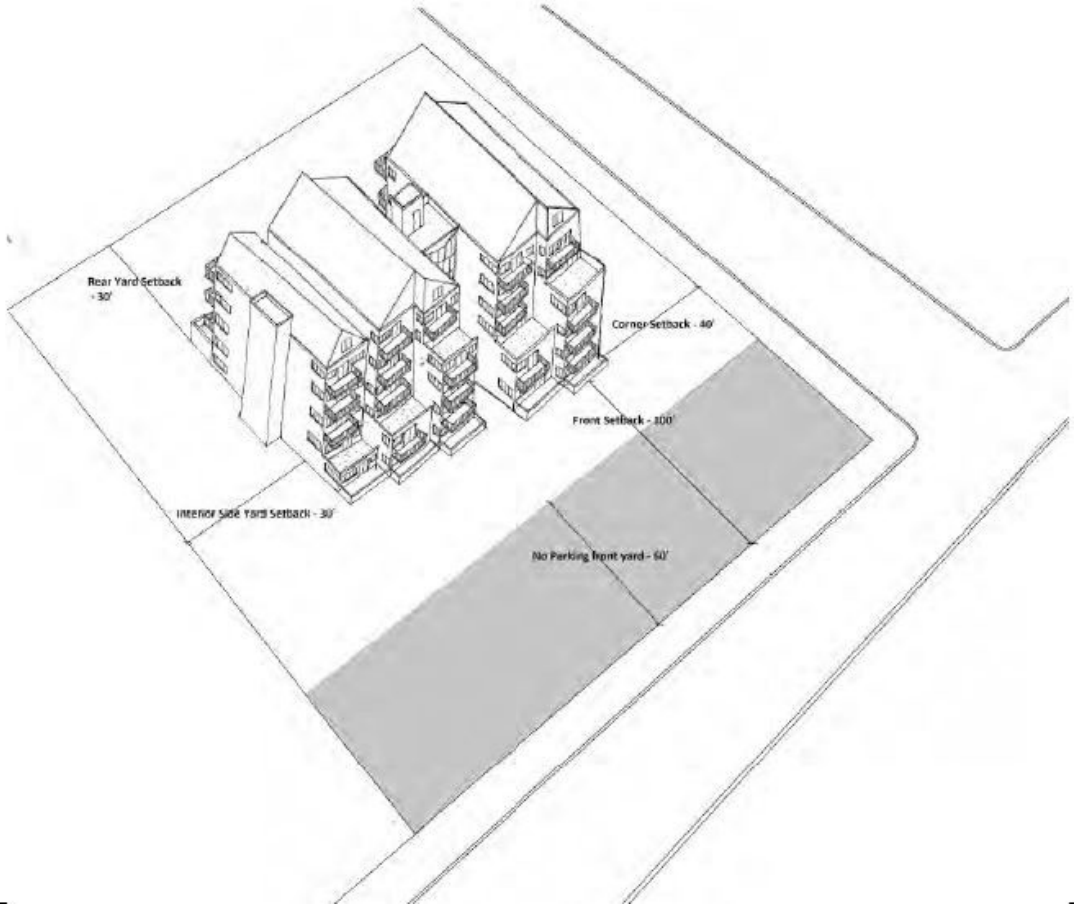
Site Work

Use of decorative paving materials in parking, sidewalks, etc.;

Extensive use of ornamental site lighting or similar features.

Housing for Seniors restricted to 55 years of age or more

Accommodations to design and density through PUD process only



(J) Mobile and Manufactured Home Park District (M- H). The purpose of the “M-H” manufactured home park district is to provide for manufactured home users and directly related uses.

(1) Base density: 4,000 sq ft per unit (10.9 units per gross acre).

(2) Base lot area. Minimum: 5 acres.

(3) Base lot width. Minimum: 200 ft.

Typical M-H Lot Configuration

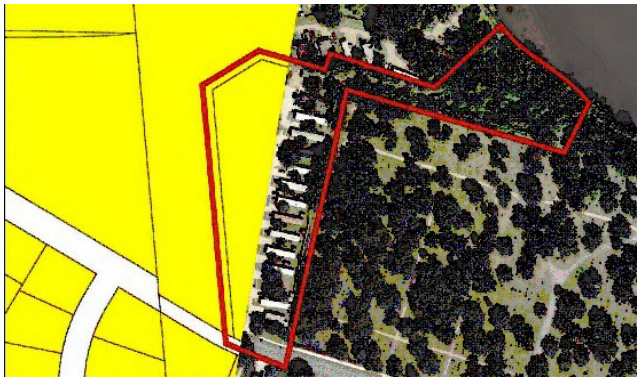


TABLE 3-10: M-H DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/
ft.)

Minimum
Floor
Area
(sq. ft.)

Minimum Building Width (ft.)

Minimum Roof Pitch & Soffit (vertical rise/horizon tal run)

Front

Interior
Side

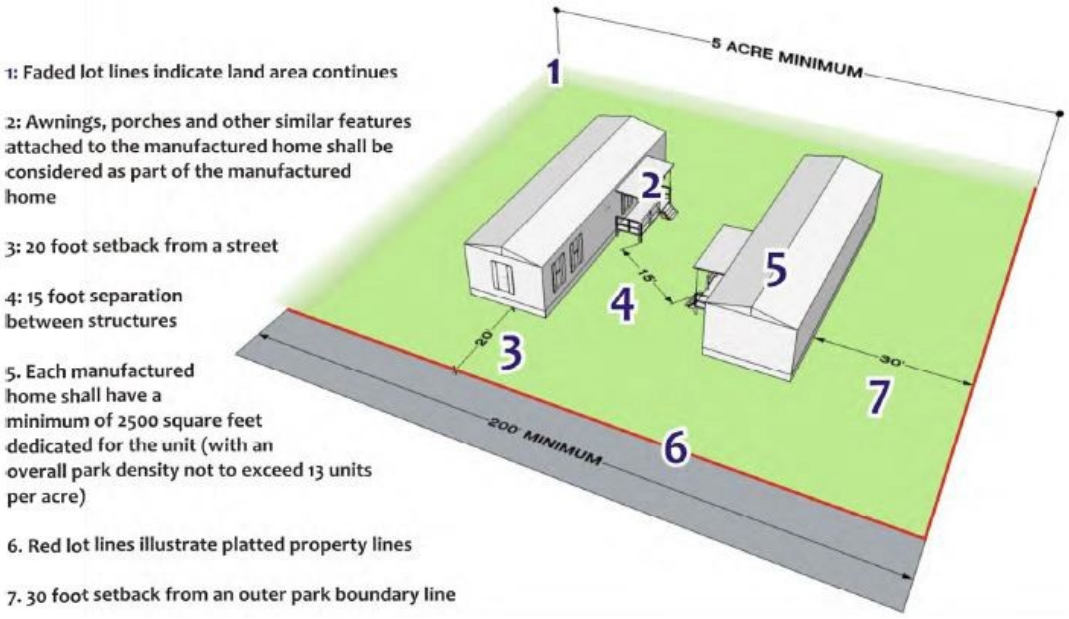
Street
Side

Rear

Manufactured Home Building

See § 153.091(C)(4) for all regulations governing manufactured home parks

Detached Accessory Structures



(Ord. 799, passed 2-27-2023)

§ 153.044 BUSINESS BASE ZONING DISTRICTS.

(A) General purpose. The business base zoning districts established in this section are intended to:

(1) Provide appropriately located lands for the full range of business uses needed by the city's residents, businesses, and workers, consistent with the comprehensive plan;

(2) Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city;

(3) Attract new investment in desired locations;

(4) Create suitable environments for various types of business uses, and protect them from the adverse effects of incompatible uses;

(5) Create suitable environments for various types of mixed use development, where business, office, retail, and residential uses are designed and integrated in compatible ways;

(6) Establish a sense of place along the city's commercial corridors, with attractive shop fronts and streetscapes;

(7) Minimize the impact of business development on residential districts and uses.

(B) Standards applicable to all business base zoning districts.

(1) Condominiums.

(a) Commercial structures may be divided for the purpose of condominium ownership.

(b) Condominiums shall be designed to meet the International Building Code as adopted in the Monticello City Code.

(C) Neighborhood Business District, B-1. The purpose of the “B-1” neighborhood business district is to provide for the establishment of local centers for convenient, limited office, retail, or service outlets which deal directly with the customer for whom the goods or services are furnished. These centers are to provide services and goods only for the surrounding neighborhoods and are not intended to draw customers from the entire community.

(1) Maximum residential density through PUD or performance standards: 5,445 sq. ft. per unit (eight units per gross acre).

(2) Base residential density: 8,000 sq. ft. per unit (five and one-half units per gross acre).

(3) Base lot area. Minimum: 8,000 sq ft.

(4) Base lot width. Minimum: 80 ft.

Typical B-1 Lot Configuration

TABLE 3- 11: B-1 DEV ELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/
ft.)

Max Floor Area Ratio (FAR)

Max Impervio us
(% of gross lot area)

Fro nt

Interi or
Side

Street
Side

Rear

All Uses

30

15

20

20

2 stories

30 feet

[1]

(Reserved)

(Reserved)

[1]: Multi-story buildings may be allowed as a conditional use pursuant to § 153.028(D) contingent upon strict adherence to fire safety code provisions as specified by the International Building Code as adopted in the Monticello City Code.

Accessory Structures

- See § 153.092(B) for all general standards and limitations on accessory structures.

Other Regulation to Consult (not all inclusive)

- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

- § 153.060, Landscaping and Screening Standards

- § 153.064, Signs

- § 153.067, Off-Street Parking

- § 153.068, Off-street loading spaces

- § 153.070, Building Materials

(D) Limited Business District , B-2. The purpose of the “ B-2” limited business district is to provide for low intensity retail or service outlets which deal directly with the customer for whom the goods or services are furnished. The uses allowed in this district are to provide goods and services on a limited community market scale and located in areas which are well served by collector or arterial street facilities at the edge of residential districts.

(1) Maximum residential density: ten dwelling units per gross acre.

(2) Base lot area. No minimum.

(3) Base lot width. Minimum: 100 ft.

Typical B-2 Lot Configuration

TABLE 3-12: B-2 DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/
ft.)

Max Floor Area Ratio (FAR)

Max Impervious
(% of gross lot area)

Fro nt

Interi or
Side

Street
Side

Rear

All Uses

30

10

20

20

2 stories

30 feet

[1]

(Reserved)

(Reserved)

[1]: Multi-story buildings may be allowed as a conditional use pursuant to § 153.028(D) contingent upon strict adherence to fire safety code provisions as specified by the International Building Code as adopted in the Monticello City Code.

Accessory Structures

- See § 153.092(B) for all general standards and limitations on accessory structures.

Other Regulation to Consult (not all inclusive)

- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

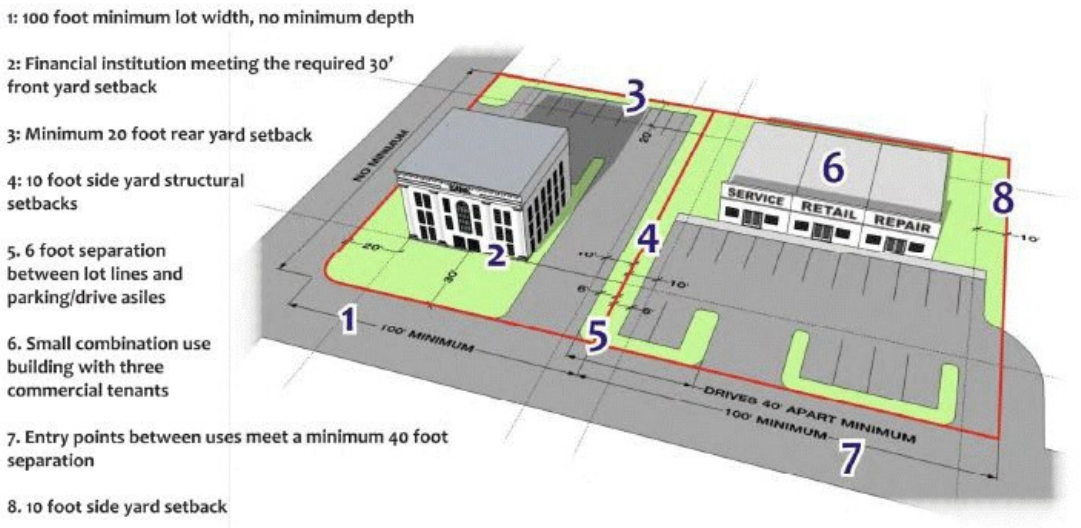
- § 153.060, Landscaping and Screening Standards

- § 153.064, Signs

- § 153.067, Off-Street Parking

- § 153.068, Off-street loading spaces

- § 153.070, Building Materials



(E) Highway Business District, B-3. The purpose of the “B-3” (highway business) district is to provide for limited commercial and service activities and provide for and limit the establish ment of motor vehicle oriented or dependent commercial and service activities.

(1) Base lot area. No minimum.

(2) Base lot width. Minimum: 100 ft.

Typical B-3 Lot Configuration

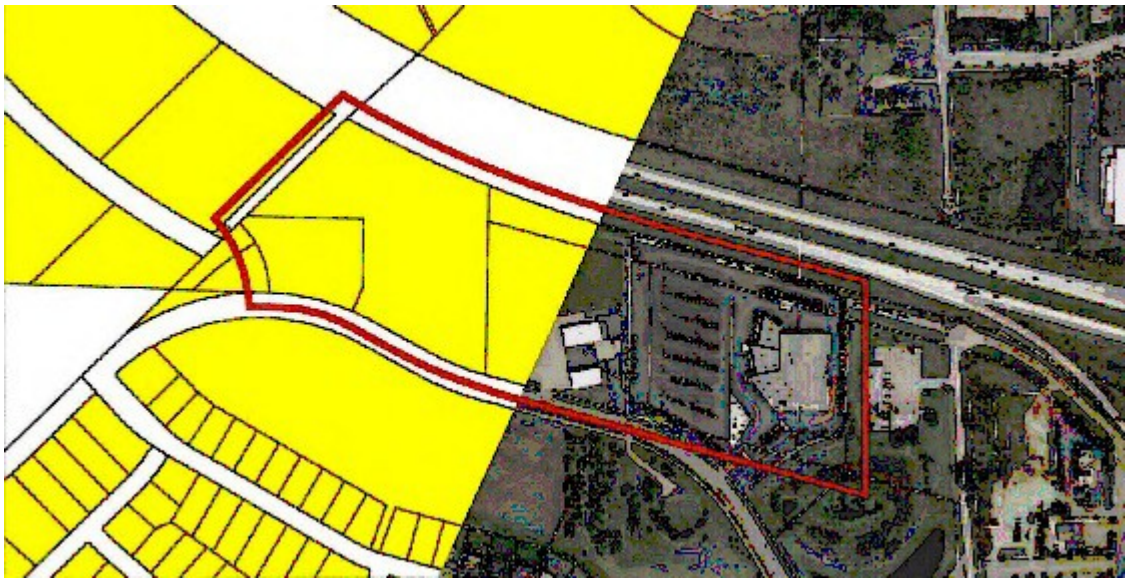


TABLE 3-13: B-3 DEVELOPMENT STANDARD S

Required Yards (in feet)

Max Height (stories/

ft.)

Max Floor Area Ratio (FAR)

Max Impe rvious

(% of gross lot area)

Fro nt

Interi or

Side

Street

Side

Rear

All Uses

30

10

20

20

2 stories

30 feet

[1]

(Reserved)

(Reserved)

[1]: Multi-story buildings may be allowed as a conditional use pursuant to § 153.028(D) contingent upon strict adherence to fire safety code provisions as specified by the International Building Code as adopted in the Monticello City Code.

Accessory Structures

- See § 153.092(B) for all general standards and limitations on accessory structures.

Other Regulation to Consult (not all inclusive)

- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

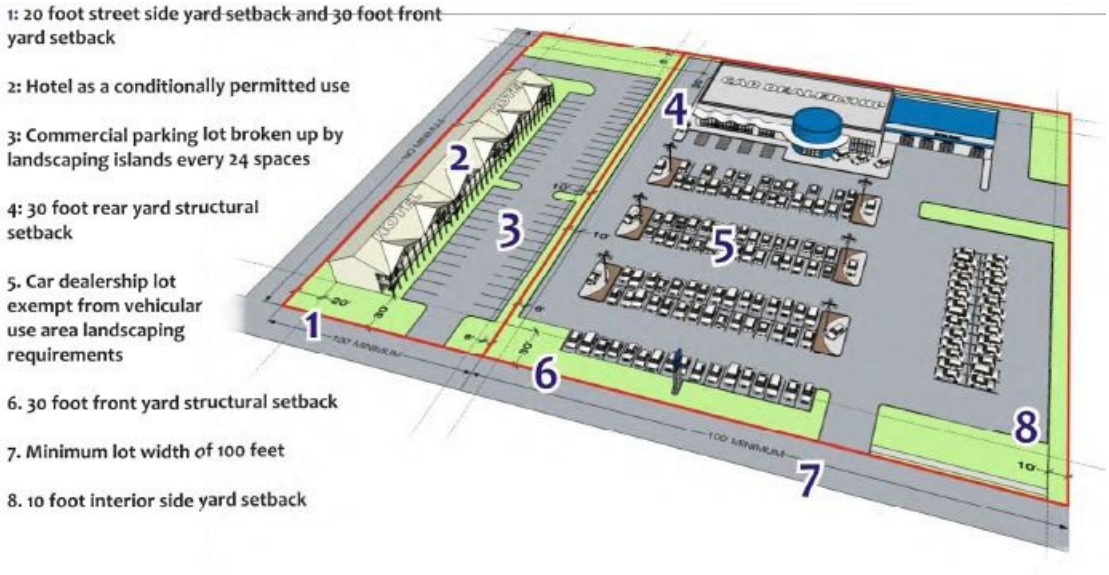
- § 153.060, Landscaping and Screening Standards

- § 153.064, Signs

- § 153.067, Off-Street Parking

- § 153.068, Off-street loading spaces

- § 153.070, Building Materials



(F) Regional Business District, B-4. The purpose of the “B-4” regional business district is to provide for the establishm ent of commercial and service activities which draw from and serve customers from the entire community or region.

(1) Base lot area. No minimum.

(2) Base lot width. No Minimum.

Typical B-4 Lot Configuration

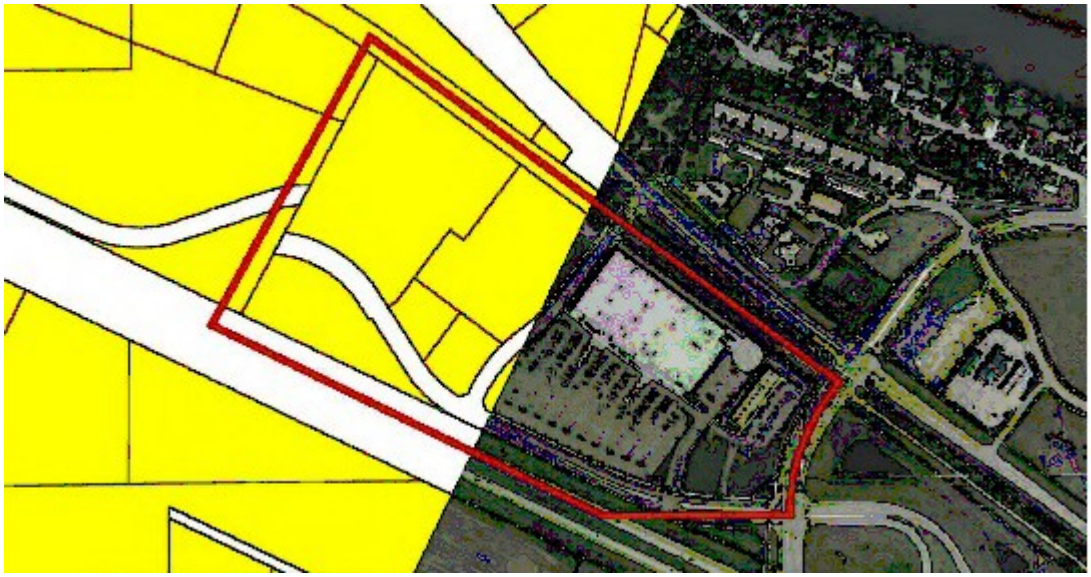


TABLE 3-14: B-4 DEVELOPMENT STANDARDS

Required Yards (in feet)

Max Height (stories/

ft.)

Max Floor Area Ratio (FAR)

Max Impervious

(% of gross lot area)

Front

Interior

Side

Street

Side

Rear

All Uses

6

6

6

6

2 stories

30 feet

[1]

(Reserved)

(Reserved)

[1]: Multi-story buildings may be allowed as a conditional use pursuant to § 153.028(D) contingent upon strict adherence to fire safety code provisions as specified by the International Building Code as adopted in the Monticello City Code.

Accessory Structures

- See § 153.092(B) for all general standards and limitations on accessory structures.

Other Regulation to Consult (not all inclusive)

- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

- § 153.060, Landscaping and Screening Standards

- § 153.064, Signs

- § 153.067, Off-Street Parking

- § 153.068, Off-street loading spaces

- § 153.070, Building Materials

(G) Central Community District, CCD.

(1) (a) The purpose of the “CCD”, Central Community District , is to provide for a wide variety of land uses, transportation options, and public activities in the downtown Monticello area, and particularly to implement the goals, objectives, and specific directives of the Comprehensive Plan, and in particular, the 2017 Downtown Monticello “Small Area Plan” Comprehensive Plan Amendment and its design and performance standards.

(b) All proposed development or redevelopment in the CCD shall be subject to the requirements of the Comprehensive Plan and other standards identified in the Small Area Plan report. It is not the intent of this chapter to abrogate any general Zoning Ordinance requirements in the CCD, and all such requirements of the Monticello Zoning Ordinance apply fully within the CCD unless addressed separately by a more detailed CCD zoning regulation.

(c) Projects that benefit from public investments and/or subsidies will have a greater burden to provide higher levels of both private and public amenities.

(d) Sub-districts. The CCD is hereby divided into five subdistricts, four of which comprise the study area of the Small Area Plan. The CCD regulations shall apply uniformly across all sub-districts unless specific sub-district requirements apply. The City Council shall, in accordance with the process providing for zoning map amendments in the Monticello Zoning Ordinance, adopt a zoning map for the CCD area identifying the subdistrict boundaries. The subdistricts are known as:

1. Riverfront;

2. Broadway;

3. Walnut and Cedar Streets;

4. Pine Street; and

5. “General” shall be any area within the CCD that is not identified as being within one of the four named subdistricts.

(e) Base lot area. No minimum.

(f) Base lot width. No minimum.

(2) Process requirements.

(a) New development or redevelopment projects within the Central Community District shall require a site plan review by the Planning Commission.

(b) At the proposer’s option, or as required by this chapter, any proposed project may combine the required site plan review as a part of a concept plan review before a joint meeting of the Planning Commission and City Council.

(c) Existing buildings shall be subject to the permitted and conditional use allowances of this chapter.

(d) Projects which do not meet the requirements of this chapter may utilize the Planned Unit Development (PUD) process.

(3) General requirements.

(a) Character areas. The Central Community District shall be further regulated by four character sub-areas: Pine Street, Broadway, Walnut/Cedar and Riverfront and shown in the Official Zoning Map.

(b) Projects across character area boundaries. By conditional use permit, uses and standards may extend across character area boundaries (but not into other zoning districts) a maximum distance of up to one-half block for project purposes, provided the majority of the project square footage lies within the permitted character-area, and the intent and character of the downtown plan is maintained.

Where projects extend across character area boundaries, projects must show compatibility to both character area standards relating to adjoining districts and uses.

(c) Private joint-parking use. All new non-residential parking areas shall be designed to accommodate cross-access and joint use throughout the CCD zoning district to minimize the need for parking infrastructure.

(d) Accessory service/appurtenance uses. Building mechanical, waste-handling, and delivery service areas shall not face the public street or public spaces (with the exception of public parking lots), and shall be screened from view of adjoining property with materials equivalent to those of the principal building.

(e) Buildings adjacent to single-family. Building side walls adjacent to single- family residentially zoned properties, or directly across a public street from such properties, shall have side wall heights of no greater than the horizontal distance to the nearest single-family structure. Buildings abutting single-family residentially zoned properties shall have roofs sloping toward the abutting single- family use, or shall employ at least one of the transitional features in § 153.066.

(f) Building materials. Building materials for all uses shall be predominantly glass, brick, natural or cultured stone, or equivalent masonry material.

1. Materials for lapped siding, board-and-batten, or shake exteriors shall be composite, maintenance free materials, and shall be limited in overall exterior use to no more than 30% of building exterior for residential structures.

2. Commercial and other structures, no more than 15% of building exterior may be comprised of architectural metal, which shall be integrated into the building design.

3. Mixed use buildings shall comply with the commercial building requirements.

(4) Performance standards.

(a) Character area standards.

1. Broadway.

a. All buildings should have a storefront or entrance on Broadway.

b. Buildings shall be oriented toward the front of the lot, with a maximum ten-feet setback. Setbacks may be increased to accommodate outdoor seating or activity spaces approved by Planning Commission during site plan review. Such spaces shall be improved with enhanced paving and landscaping materials and other elements.

c. Storefronts facing any public street shall consist of a minimum of 50% window/door transparency on ground floor.

d. Buildings shall be between two to four stories, additional stories may be authorized by conditional use permit. Single-story buildings may be approved through site plan review by the Planning Commission and City Council where multiple stories are impractical for the specific use. In such cases, the building architecture should incorporate a façade that mimics multiple stories through additional window openings or similar features.

e. Buildings shall have a maximum width of 60 feet, or shall be articulated by setback, materials or window treatments roofline variation, or other design methods to reflect the appearance of separate buildings, in approximately 30 to 60-foot increments.

f. Ground floor commercial buildings which front on public streets or open space shall not be entirely comprised of office uses, but shall include other retail, hospitality or entertainment uses.

g. Sidewalks and/or pathway connections shall be provided for all development projects.

2. Walnut/Cedar.

a. Features such as upper balconies, dormers, courtyards, porches and dooryards shall be incorporated for residential uses.

b. Buildings shall be between two to four stories; additional stories may be authorized by conditional use permit. Single-story buildings may be approved through site plan review by the Planning Commission and the City Council where multiple stories are impractical for the specific use.

In such cases, the building architecture should incorporate a façade that mimics multiple stories through additional window openings or similar features.

c. Buildings shall be oriented toward Walnut and Cedar Street and toward front corners where applicable.

3. Pine Street.

a. Buildings shall be between two to four stories; additional stories may be authorized by conditional use permit. Single-story buildings may be approved through site plan review by the Planning Commission and the City Council where multiple stories are impractical for the specific use. In such cases, the building architecture should incorporate a façade that mimics multiple stories through additional window openings or similar features.

b. Buildings shall be oriented to Pine Street with secondary entrances located on side or interior facades. Corner properties shall have dual orientation.

4. Riverfront.

a. Features such as upper balconies, dormers, courtyards, porches and dooryards shall be incorporated for residential uses.

b. Buildings shall be between two to four stories; additional stories may be authorized by conditional use permit. Single-story buildings may be approved through site plan review by the Planning Commission and the City Council where multiple stories are impractical for the specific use. In such cases, the building architecture should incorporate a façade that mimics multiple stories through additional window openings or similar features.

c. Buildings shall be oriented toward river and public right of way corners where applicable.

(b) Use type standards.

1. Residential.

a. Single/two-family: Where permitted, the requirements of the R-2 District will apply.

b. Townhouse.

(i) Permitted where the subject property has no direct frontage on Broadway or Walnut/Cedar.

(ii) Must preserve open space to coordinate with public spaces.

(iii) Building heights up to 25 feet or two stories above grade.

(iv) Setbacks – 15 feet from abutting single-family, minimum of eight feet from public street. Interior side setbacks may be zero.

(v) Variable roofline and front building walls.

(vi) Classic row-house; living space to front; no garage-front design.

(vii) All parking in attached garages.

(viii) Parking ratio of two spaces per du, off-street.

c. Multi four-12 du.

(i) Only allowed where the subject property has no frontage on Broadway, Walnut/Cedar. Conditionally permitted where the property has direct frontage on Broadway or Walnut/Cedar.

(ii) Must preserve open space to coordinate with public spaces.

(iii) Building heights up to 35 feet or three stories above grade; additional stories authorized through conditional use permit.

(iv) Setbacks – 15 feet from abutting single-family, minimum of eight feet from public street. Interior side setbacks may be zero.

(v) Variable roofline and front building walls.

(vi) Garage entrances may not face a public street.

(vii) Garages which face a single-family residential zoning district must screen the garage entrance from the eye-level view of the abutting property.

(viii) All parking in attached garages within building footprint (no surface parking).

(ix) Parking ratio of 1.7 spaces per du, off-street, or a minimum of no less than one space per bedroom, off-street, whichever is greater. As part of site plan review, the Planning Commission may impose a different (higher or lower) standard where the nature of the use supports such standard.

(x) Residential units on upper, non-ground floors of buildings in the Riverfront Character Area are permitted as a part of mixed-use buildings by conditional use permit.

d. Multi 13+ du.

(i) Only allowed where the subject property has no frontage on Broadway, Walnut/Cedar. Conditionally permitted where the property has direct frontage on Broadway or Walnut/Cedar.

(ii) Must preserve open space to coordinate with public spaces.

(iii) Building heights up to 50 feet or four stories above grade; additional stories authorized through conditional use permit.

(iv) Setbacks – shall be – 15 feet from abutting single- family, minimum of eight feet from public street. Interior side setbacks may be zero.

(v) Variable roofline and front building walls.

(vi) Garage entrances may not face a public street.

(vii) Garages which face a single-family residential zoning district must screen the garage entrance from the eye-level view of the abutting property.

(viii) All required parking shall be located in attached garages within building footprint (no surface parking).

(ix) Parking ratio of 1.1 spaces per dwelling unit bedroom including adjacent on-street parking, or a minimum of no less than one space per bedroom, off-street, whichever is greater. As part of site plan review, the Planning Commission may impose a different (higher or lower) standard where the nature of the use supports such standard.

(x) Multiple-family housing limited to seniors may reduce parking supply to half spaces per dwelling unit, off-street. As part of site plan review, the Planning Commission may impose a different (higher or lower) standard where the nature of the type of senior living use supports such standard.

(xi) Residential units on upper, non-ground floors of buildings in the Riverfront and Broadway Character Area are permitted as a part of mixed-use buildings.

e. Ground floor residential units. When allowed, subject to:

(i) Common areas, lobbies, etc. (if any) should be oriented toward street.

(ii) Street levels should include additional window and doorway glass exposure toward streets.

2. Commercial and mixed-use, generally.

a. Uses adjacent to single-family residential zoned properties which include dining/drinking service spaces shall have one outdoor areas facing public open space use areas.

b. Building heights of up to 50 feet or four stories shall be permitted.

c. Buildings heights exceeding 50 feet or four stories may be allowed by conditional use permit.

d. Residential units in mixed-use commercial buildings shall include balcony spaces.

e. Building setbacks shall be 15 feet from abutting single-family homes, minimum eight feet from public streets. Interior side setbacks may be zero.

(c) Landscaping.

1. Site improvements in the CCD shall include landscaping consistent with the requirements of § 153.060 – Landscaping and Screening.

2. Pedestrian, plaza/patio, and bicycle spaces on the property shall integrate alternative pavement materials, designs, or features consistent with the surrounding streetscape.

(d) Parking.

1. Off-street parking areas shall be developed and constructed according to the requirements of § 153.067. Parking supply shall be as identified in this chapter, or where not specified herein, as in § 153.067 – Off-Street Parking.

2. A commercial use which propose to vary from the requirements of this section by deferring its required off-street supply and contributing to the public parking fund shall be accompanied by a parking study, subject to review and approval by Community Development staff, which illustrates an adequate amount of available unused public parking within 400 feet of the establishment’s primary entrance. “Adequate amount” shall be established by the city on a case-by-case basis in review of the applicant’s individualized parking study, but shall include the following elements, as a minimum: (1) an examination of the public parking supply commonly available for use by the proposed business during its peak usage hours; (2) the likely demand placed on said supply by the proposed business based on contemporary resources for parking utilization; and (3) an estimate of competing demand on said supply.

3. An existing business, as of the date of this chapter, which has a parking supply which is substandard according to § 153.067 - Off-Street Parking, shall be considered a legal nonconformity. The business may

expand or change to another business that increases the parking supply deficiency only by participating in the parking fund, according to the requirements of this Section and § 153.067(E)(4)(c) for such deficiency.

4. Parking shall not be located on a parcel between the front building line of the principal building and the public street, except where expressly provided for by the City Council after recommendation from the Planning Commission.

(e) Other performance standards.

1. All other performance standards as identified in §§ 153.060 through 153.072 shall apply, unless otherwise addressed in this section.

2. Maximum residential density: 25.0 dwelling units per gross acre.

3. Maximum building height: 60 feet.

a. Buildings may exceed 50 feet in height by conditional use permit, with enhanced site improvements, architecture, and building materials.

4. Lot coverage, buildings.

a. Minimum building lot coverage: 20%.

b. Maximum building lot coverage: 90%.

5. Accessory structures.

a. For commercial uses, trash handling equipment shall be located within buildings wherever practical. If located in a structure attached to, or detached from, the principal building, such structure shall screen the trash handling equipment from the view of all neighboring property and public rights-of-way, and shall be constructed of materials which comprise the principal building. Gates and/or doors shall be constructed of permanent opaque materials, matching the principal building in color, and shall be kept closed at all times other than when being used for access. Roofs for such structures are encouraged, but not required when the screening wall of the enclosure is at least eight feet in height.

b. For mixed-use and multi-family residential uses, trash handling equipment shall be located within the principal building.

c. Any other accessory structures allowed in the CCD (see Table 5-4 – Accessory Uses by District) shall meet all requirements of the CCD district applicable to principal buildings.

(Ord. 799, passed 2-27-2023)

§ 153.045 INDUSTRIAL BASE ZONING DISTRICTS.

(A) General purpose. The industrial base zoning districts established in this section are intended to provide locations for the retention, expansion and creation of businesses that provide jobs for Monticello residents and expansion and diversification of the property tax base. More specifically, these districts are intended to:

(1) Provide locations for industrial development in the areas of manufacturing, processing, warehousing, distribution and related businesses consistent with the comprehensive plan;

(2) Allow non-industrial support businesses in industrial areas;

(3) Strengthen the city’s economic base, and provide employment opportunities close to home for residents of the city;

(4) Attract new investment in desired locations;

(5) Create suitable environments for industrial uses, and protect them from the adverse effects of incompatible uses;

(6) Minimize the impact of industrial development on residential districts and uses.

(B) Standards applicable to all industrial base zoning districts.

(1) Condominiums.

(a) Industrial structures may be divided for the purpose of condominium ownership.

(b) Condominiums shall be designed to meet the International Building Code as adopted in the Monticello City Code.

(C) Industrial and Business Campus District, IBC. The purpose of the “IBC” industrial business campus district is to provide for the establishment of limited light industrial business offices, limited light manufacturing, wholesale showrooms and related uses in an environment which provides a high level of amenities, including landscaping, preservation of natural features, architectural controls, and other features.

(1) Base lot area. Minimum: 8,000 sq. ft.

(2) Base lot width. Minimum: 100 ft.

Typical IBC Lot Configuration

TABLE 3-16 : IBC DEVELOPMENT STANDARDS

Required Yards (in feet) [1]

Max Height (stories/
ft.)

Max Floor Area Ratio (FAR)

Max Impervious
(% of gross lot area)

Front

Interior
Side

Street
Side

Rear

TABLE 3-16 : IBC DEVELOPMENT STANDARDS

Required Yards (in feet) [1]

Max Height (stories/
ft.)

Max Floor Area Ratio (FAR)

Max Impervious
(% of gross lot area)

Front

Interior Side

Street Side

Rear

All Uses

50

30

50

40

4 stories

45 feet

[2]

(Reserved)

(Reserved)

[1]: When any yard abuts a zoning district other than I-1 or I-2, the setbacks for the abutting yard must be 50 feet.

[2]: Multi-story buildings of more than 4 stories and 45 feet may be allowed as a conditional use pursuant to § 153.028(D) contingent upon strict adherence to fire safety code provisions as specified by the International Building Code as adopted in the Monticello City Code.

Accessory Structures

- See § 153.092(B) for all general standards and limitations on accessory structures.

Additional Regulations

- In the IBC district, every effort shall be made to preserve natural ponding areas and features of the land to create passive open space.

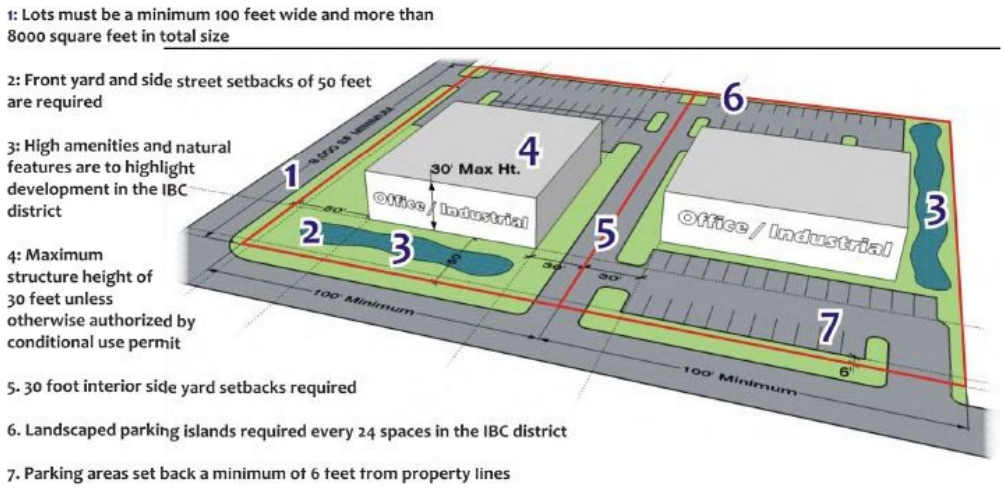
Other Regulation to Consult (not all inclusive)

- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

- § 153.060, Landscaping and Screening Standards

- § 153.064, Signs
- § 153.067, Off-Street Parking
- § 153.068, Off-street loading spaces
- § 153.070, Building Materials



(D) Light Industrial District, I-1. The purpose of the "I-1," light indu strial, distr ict is to pro vide for the establishm ent of war ehousing and light industrial development.

(1) Base lot area. Minimum: 20,000 square feet.

(2) Base lot width. Minimum: 100 feet.

Typical I-1 Lot Configuration

TABLE 3-17: I-1 DEVELOPMENT STANDARDS

Required Yards (in feet) [1]

Max Height (stories/
ft.)

Max Floor Area Ratio (FAR)

Max Impervi ous
(% of gross lot area)

Front

Interior
Side

Street
Side

Rear

All Uses

30

15

30

15

4 stories

45 feet

[2]

(Reserved)

(Reserved)

[1]: When any yard abuts a zoning district other than I-1 or I-2, the setbacks for the abutting yard must be 50 feet.

[2]: Multi-story buildings of more than 4 stories and 45 feet may be allowed as a conditional use pursuant to § 153.028(D) contingent upon strict adherence to fire safety code provisions as specified by the International Building Code as adopted in the Monticello City Code.

Accessory Structures

- See § 153.092(B) for all general standards and limitations on accessory structures.

Other Regulation to Consult (not all inclusive)

- § 153.042, Common District Requirements

- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts

- § 153.060, Landscaping and Screening Standards

- § 153.064, Signs

- § 153.067, Off-Street Parking

- § 153.068, Off-street loading spaces

- § 153.070, Building Materials

(E) Heavy Industrial District, I-2. The pur pose of the "I-2 ," hea vy ind ustrial , distric t is to provide for the establishment of heavy industrial and manufacturing development and use which because of the nature of the product or character of activity requires isolation from residential or commercial use.

(1) Base lot area. Minimum: 30,000 square feet.

(2) Base lot width. Minimum: 100 feet.

Typical I-2 Lot Configuration

TABLE 3-18: I-2 DEVELOPMENT STANDARDS

Required Yards (in feet) [1]

Max Height (stories/
ft.)

Max Floor Area Ratio (FAR)

Max Impervious
(% of gross lot area)

Front

Interior
Side

Street
Side

Rear

All Uses

30

15

30

15

4 stories

45 feet

[2]

(Reserved)

(Reserved)

[1]: When any yard abuts a zoning district other than I-1 or I-2, the setbacks for the abutting yard must be 50 feet.

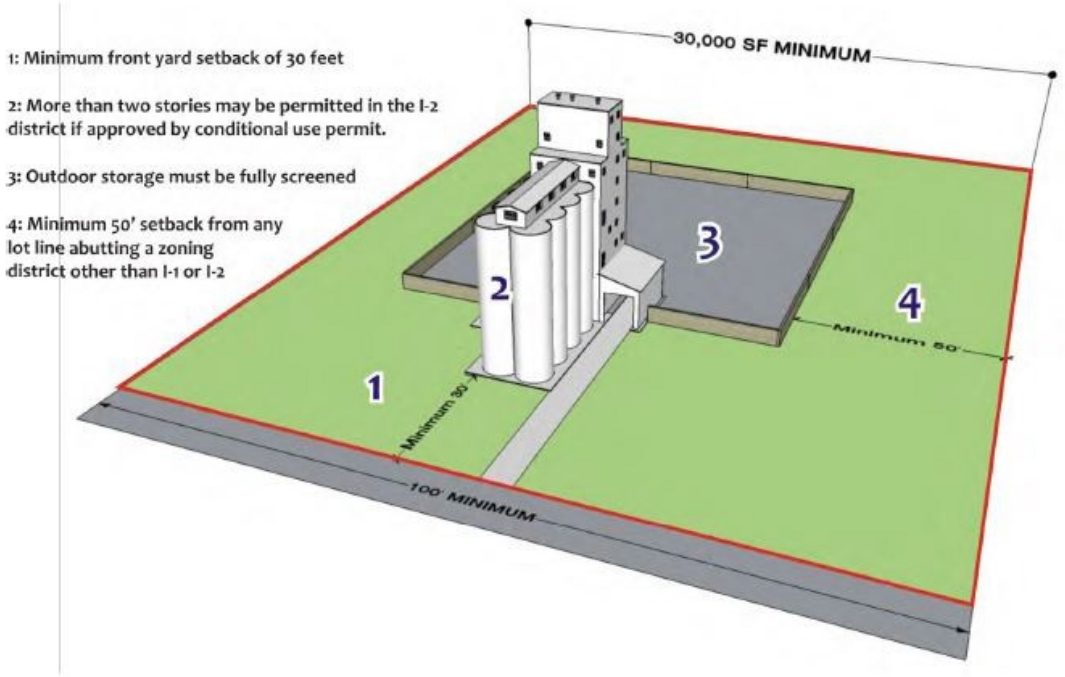
[2]: Multi-story buildings of more than 4 stories and 45 feet may be allowed as a conditional use pursuant to § 153.028(D) contingent upon strict adherence to fire safety code provisions as specified by the International Building Code as adopted in the Monticello City Code.

Accessory Structures

- See § 153.092(B) for all general standards and limitations on accessory structures.

Other Regulation to Consult (not all inclusive)

- § 153.042, Common District Requirements
- § 153.043(B), Standards Applicable to All Residential Base Zoning Districts
- § 153.060, Landscaping and Screening Standards
- § 153.064, Signs
- § 153.067, Off-Street Parking
- § 153.068, Off-street loading spaces
- § 153.070, Building Materials



(Ord. 799, passed 2-27- 2023)

§ 153.046 OVERLAY ZONING DISTRICTS.

(A) General purpose. Overlay zoning districts are superimp osed over portions of one or more base zoning districts in order to introduce additional zoning requiremen ts necessary to address a specific issue.

(B) Relationship to base zoning districts.

(1) Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district unless expressly stated otherwise in these regulations.

(2) Conflicts between overlay district standards and other standards in this chapter shall be resolved as outlined in § 153.007(C).

(C) Floodplain district.

(1) Statutory authorization, findings of fact and purpose.

(a) Statutory authorization. The legislature of the State of Minnesota has, in M.S. Chapter 103F and Chapter 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Monticello, Minnesota, does ordain as follows.

(b) Purpose.

1. This chapter regulates development in the flood hazard areas of the city of Monticello. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this chapter to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

2. National Flood Insurance Program Compliance. This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community’s eligibility in the National Flood Insurance Program.

3. This chapter is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(2) General provisions.

(a) Lands to which ordinance applies. This chapter applies to all lands within the jurisdiction of the city of Monticello within the boundaries of the Floodway and Flood Fringe Districts. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map, or as modified in accordance with § 153.046(C)(2)(a)2. below.

1. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this chapter. In case of a conflict, the more restrictive standards will apply.

2. Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.

3. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

(b) Incorporation of maps by reference.

1. The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this chapter.

a. Currently effective flood insurance study:

(i) City of Monticello, Minnesota, dated May 1979.

(ii) Wright County Minnesota unincorporated areas, dated 8/18/1992.

b. Currently effective Flood Insurance Rate Map panels enumerated below:

(i) City of Monticello, Panel 2705410005B, effective 11/1/1979.

(ii) Wright County, Minnesota Panel 2705340018C, effective 8/18/1992.

(iii) Wright County, Minnesota Panel 2705340015B, effective 8/4/1988.

c. Currently effective Flood Boundary and Floodway Map panels enumerated below:

(i) City of Monticello, Panel 2705410001B, effective 11/1/1979.

(ii) City of Monticello, Panel 2705410002B, effective 11/1/1979.

(iii) City of Monticello, Panel 2705410003B, effective 11/1/1979.

d. Preliminary flood insurance study:

(i) Wright County Minnesota and Incorporated Areas, dated 6/22/2011.

e. Preliminary Flood Insurance Rate Map panels enumerated below:

(i) Wright County, Minnesota Panel 27171C0155D, dated 6/22/2011.

(ii) Wright County, Minnesota Panel 27171C0160D, dated 6/22/2011.

(iii) Wright County, Minnesota Panel 27171C0165D, dated 6/22/2011.

(iv) Wright County, Minnesota Panel 27171C0170D, dated 6/22/2011.

(v) Wright County, Minnesota Panel 27171C0190D, dated 6/22/2011.

2. For any instance where the effective and preliminary maps conflict, the more restrictive map shall apply. These materials are on file in the City Clerk's Office, City of Monticello City Hall.

(c) Abrogation and greater restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this chapter imposes greater restrictions, the provisions of this chapter prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(d) Warning and disclaimer of liability. This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter does not create liability on the part of Monticello or its officers or employees for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(e) Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of law, the remainder of this chapter shall not be affected and shall remain in full force.

(f) Definitions. Unless specifically defined below, words or phrases used in this chapter must be interpreted according to common usage and so as to give this chapter its most reasonable application.

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The elevation of the “regional flood.” The term “base flood elevation” is used is used in the flood insurance survey.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

CONDITIONAL USE. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

a. Certain conditions as detailed in the zoning ordinance exist.

b. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

CRITICAL FACILITIES. Facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FARM FENCE. A fence as defined by M.S. § 344.02, subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this chapter. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this chapter.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the special flood hazard area (1% annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the flood insurance study for Wright County, Minnesota.

FLOOD INSURANCE RATE MAP. An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source.

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this chapter.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert,

building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the “Regional Flood” (see definition).

PRINCIPAL USE OR STRUCTURE. All uses or structures that are not accessory uses or structures.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

REPETITIVE LOSS. Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with “100-Year Floodplain.”

START OF CONSTRUCTION. Includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first

placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in § 153.046(I)(2)(b) and other similar items.

SUBSTANTIAL DAMAGE. Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this chapter, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

(g) Annexations. The Flood Insurance Rate Map panels adopted by reference into § 153.046(C)(2) above may include floodplain areas that lie outside of the corporate boundaries of the City of Monticello at the time of adoption of this chapter. If any of these floodplain land areas are annexed

into the city of Monticello after the date of adoption of this chapter, the newly annexed floodplain lands will be subject to the provisions of this chapter.

(h) Detachments. The Flood Insurance Rate Map panels adopted by reference into § 153.046(C)(2) above will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this chapter. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of Monticello after the date of adoption of this chapter, the newly detached floodplain lands will be subject to the provisions of this chapter immediately upon the date of detachment.

(3) Establishment of floodplain districts.

(a) Districts.

1. Floodway District. The Floodway District includes those areas within Zones AE, A2, A7 delineated within floodway areas as shown on the Flood Insurance Rate Maps and Flood Boundary and Floodway Maps adopted in § 153.046(C)(2).

2. Flood Fringe District. The Flood Fringe District includes areas within Zones AE, A2, A7 on the Flood Insurance Rate Map and flood boundary and floodway maps adopted in § 153.046(C)(2),but located outside of the floodway.

3. Reserved for General Floodplain District.

(b) Applicability. Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in § 153.046(D) or § 153.046(E) will apply, depending on the location of a property.

(4) Requirements for all floodplain districts.

(a) Permit required. A permit must be obtained from the Zoning Administrator to verify a development meets the standards outlined in this chapter prior to conducting the following activities:

1. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this chapter.

2. The construction of a dam, on-site septic system, or fence, although a permit is not required for a farm fence as defined in this chapter.

3. The use or change of use of a building, structure, or land.

4. The change or extension of a nonconforming use.

5. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

6. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

7. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.

8. Any other type of “development” as defined in this chapter.

(b) Building sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

1. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. Constructed with materials and utility equipment resistant to flood damage;

3. Constructed by methods and practices that minimize flood damage; and

4. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Flood capacity. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

(d) Other.

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

2. Critical facilities, as defined in § 153.046(C)(2)(f), are prohibited in all floodplain districts.

(D) Floodway District (FW).

(1) Permitted uses. The following uses, subject to the standards set forth in § 153.046(D)(2), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

(a) General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.

(b) Industrial-commercial loading areas, parking areas, and airport landing strips.

(c) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.

(d) Residential yards, lawns, gardens, parking areas, and play areas.

(e) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.

(2) Standards for floodway permitted uses.

(a) The use must have a low flood damage potential.

(b) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.

(c) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(3) Conditional uses. The following uses may be allowed as conditional uses following the standards and procedures set forth in § 153.046(J)(4) of this chapter and further subject to the standards set forth in § 153.046(D)(4), if otherwise allowed in the underlying zoning district or any applicable overlay district.

(a) Structures accessory to the uses listed in § 153.046(D)(1)(a) through (c) above and the uses listed in § 153.046(D)(3)(b) and (c) below.

(b) Extraction, fill and storage of soil, sand, gravel, and other materials.

(c) Marinas, boat rentals, permanent docks, piers, wharves, and water control structures.

(d) Storage yards for equipment, machinery, or materials.

(e) Construction of fences that obstruct flood flows. Farm fences, as defined in § 153.046(C)(2)(f), are permitted uses.

(f) Travel-ready recreational vehicles meeting the exception standards in § 153.046(I)(2)(b).

(g) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(4) Standards for floodway conditional uses.

(a) All uses. A conditional use must not cause any increase in the regional flood elevations or cause an increase in flood damages in the reach or reaches affected.

(b) Fill; storage of materials and equipment.

1. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

2. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% chance or regional flood may only be allowed if the City of Monticello has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

(c) Accessory structures. Accessory structures, as identified in § 153.046(D)(3)(a), may be permitted, provided that:

1. Structures are not intended for human habitation;

2. Structures will have a low flood damage potential;

3. Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;

4. Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

5. Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.

6. As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal

investment. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(d) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of M.S. § 103G.245, as it may be amended from time to time.

(e) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(f) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(E) Flood Fringe District (FF).

(1) Permitted uses. Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in § 153.046(E)(2). If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

(2) Standards for flood fringe permitted uses.

(a) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

(b) Accessory structures. As an alternative to the fill requirements of § 153.046(E)(2)(a), structures accessory to the uses identified in § 153.046(E)(1) may be permitted to be internally/wet floodproofed to the FP3

or FP4 floodproofing classifications in the State Building Code, provided that:

1. The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.

2. All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; (ii) be constructed with materials resistant to flood damage; and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.

3. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(c) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with § 153.046(E)(2)(a) of this chapter, or if allowed as a conditional use under § 153.046(E)(3)(c) below.

(d) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

(e) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

(f) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

(g) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City of Monticello.

(h) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be

designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(i) Manufactured homes and recreational vehicles must meet the standards of § 153.046(I) of this chapter.

(3) Conditional uses. The following uses and activities may also be allowed as conditional uses as a principal or accessory use only if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in § 153.046(J).

(a) Storage of any material or equipment below the regulatory flood protection elevation.

(b) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with § 153.046(E)(2)(a).

(c) The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in § 153.046(E)(4)(f).

(4) Standards for flood fringe conditional uses:

(a) The standards listed in § 153.046(E)(2)(d) through § 153.046(E)(2)(h) apply to all conditional uses.

(b) Residential basements, as defined by § 153.046(C)(2)(f), are not allowed below the regulatory flood protection elevation.

(c) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, meeting the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(d) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

1. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

2. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City of Monticello.

3. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(e) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

(f) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure’s basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

1. Design and certification. The structure’s design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding. Structure shall be subject to a nonconversion agreement with upon the issuance of any permit.

2. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

a. The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

b. That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(F) Reserved for General Floodplain District.

(G) Subdivision standards.

(1) Subdivisions. No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this chapter.

(a) All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

(b) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City of Monticello. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

(c) For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

(d) Subdivision proposals must be reviewed to assure that:

1. All such proposals are consistent with the need to minimize flood damage within the flood prone area;

2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

3. Adequate drainage is provided to reduce exposure of flood hazard.

(H) Public utilities, railroads, roads, and bridges.

(1) Public utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be flood proofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

(2) Public transportation facilities. Railroad tracks, roads, and bridges to be located within the floodplain must comply with § 153.046(C)(4) and § 153.046(D). These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(3) On-site water supply and sewage treatment systems. Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minn. Rules 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minn. Rules 7080.2270, as amended.

(I) Manufactured homes and recreational vehicles.

(1) Manufactured homes. New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

(a) Placement or replacement of manufactured home units is prohibited in the Floodway District.

(b) Placement or replacement of manufactured home units in the Flood Fringe District is subject to the requirements of § 153.046(E) and the following standards.

1. New and replacement manufactured homes must be elevated in compliance with § 153.046(D) of this chapter and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

2. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in § 153.046(G)(1)(b) of this chapter.

(2) Recreational vehicles. New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of

recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the requirements below.

(a) Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the following areas and meet the criteria listed in § 153.046(I)(2)(b):

1. Individual lots or parcels of record.

2. Existing commercial recreational vehicle parks or campgrounds.

3. Existing condominium-type associations.

(b) Criteria for exempt recreational vehicles:

1. The vehicle must have a current license required for highway use.

2. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

3. No permanent structural type additions may be attached to the vehicle.

4. Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in § 153.046(C)(4)(b) and § 153.046(E)(2)(b).

(J) Administration.

(1) Duties. A Zoning Administrator or other official designated by the City of Monticello must administer and enforce this chapter.

(2) Permit application requirements.

(a) Application for permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

1. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

2. Location of fill or storage of materials in relation to the stream channel.

3. Copies of any required municipal, county, state or federal permits or approvals.

4. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(b) Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Floodproofing measures must be certified by a registered professional engineer or registered architect. Accessory structures designed in accordance with § 153.046(E)(2)(b) of this chapter are exempt from certification, provided sufficient documentation is provided.

(c) Certificate of zoning compliance for a new, altered, or nonconforming use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

(d) Construction and use as provided on applications. Permits, conditional use permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter.

(e) Record of first floor elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(f) Notifications for watercourse alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S. § 103G.245, as it may be amended from time to time, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(g) Notification to FEMA when physical changes increase or decrease base flood elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(3) Variances.

(a) Variance applications. An application for a variance to the provisions of this chapter will be processed and reviewed in accordance with applicable state statutes and §§ 153.025 through 153.028.

(b) Adherence to state floodplain management standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(c) Additional variance criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

1. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

2. Variances may only be issued by a community upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Flood insurance notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

(e) General considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

1. The potential danger of life and property due to increased flood heights or velocities caused by encroachments;

2. The danger that materials may be swept onto other lands or downstream to the injury of others;

3. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

4. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

5. The importance of the services to be provided by the proposed use to the community;

6. The requirements of the facility for a waterfront location;

7. The availability of viable alternative locations for the proposed use that are not subject to flooding;

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

9. The relationship of the proposed use to the Comprehensive Land Use Plan and floodplain management program for the area;

10. The safety of access to the property in times of flood for ordinary and emergency vehicles;

11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

(f) Submittal of hearing notices to the Department of Natural Resources (DNR). The Zoning Administrator or other official designated by the City of Monticello must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(g) Submittal of final decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(h) Record-keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(4) Conditional uses.

(a) Administrative review. An application for a conditional use permit under the provisions of this chapter will be processed and reviewed in accordance with §§ 153.025 through 153.028.

(b) Factors used in decision-making. In passing upon conditional use applications, the City of Monticello must consider all relevant factors specified in other sections of this chapter, and those factors identified in § 153.046(J)(3)(e).

(c) Conditions attached to conditional use permits. The City of Monticello may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.

2. Limitations on period of use, occupancy, and operation.

3. Imposition of operational controls, sureties, and deed restrictions.

4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

5. Floodproofing measures, in accordance with the State Building Code and this chapter. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(d) Submittal of hearing notices to the Department of Natural Resources (DNR). The Zoning Administrator or other official designated by the City of Monticello must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(e) Submittal of hearing notices to the Department of Natural Resources (DNR). The City of Monticello must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(f) Submittal of final decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(K) Nonconformities.

(1) Continuance of nonconformities. A use, structure, or occupancy of land which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined

in § 153.046(C)(2)(f), are subject to the provisions of § 153.046(K)(1)(a) to § 153.046(K)(1)(f).

(a) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in § 153.046(K)(1)(b) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

(b) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in § 153.046(K)(1)(d) below.

(c) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this chapter.

(d) If any structure experiences a substantial improvement as defined in this chapter, then the entire structure must meet the standards of § 153.046(D) or § 153.046(E) for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50% of the market value of any nonconforming structure, the entire structure must meet the standards of § 153.046(D) or § 153.046(E).

(e) If any nonconformity is substantially damaged, as defined in this chapter, it may not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in § 153.046(D) or § 153.046(E) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

(f) If any nonconforming use or structure experiences a repetitive loss, as defined in § 153.046(C)(2)(f), it must not be reconstructed except in conformity with the provisions of this chapter.

(L) Violations and penalties.

(1) Violation constitutes a misdemeanor. Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

(2) Other lawful action. Nothing in this chapter restricts the City of Monticello from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this chapter and will be prosecuted accordingly.

(3) Enforcement. Violations of the provisions of this chapter will be investigated and resolved in accordance with the provisions of §§ 153.120 through 153.124 and § 153.999. In responding to a suspected ordinance violation, the Zoning Administrator and City of Monticello may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Monticello must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(M) Amendments.

(1) Floodplain designation – restrictions on removal. The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(2) Amendments require DNR approval. All amendments to this chapter must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

(3) Map revisions require ordinance amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in § 153.046(C)(2).

(N) Wetland District.

(1) Findings, intent and incorporation by reference.

(a) The city has determined that wetlands serve to maintain water quality by filtering water that is discharged into ground water aquifers and by retaining inorganic sediments, toxicants, and nutrients. They also retain and reduce the discharge of phosphorus and transform nutrients from their

inorganic to organic forms, thereby, protecting streams and water bodies from eutrophication and contamination. Wetlands also store runoff and reduce the velocity of and magnitude of flood peaks. In addition, some wetlands receive the upward discharge of ground water. These wetlands tend to support more stable biological communities since their water temperatures and water levels tend to be more stable.

(b) Wetland vegetation also reduces the energy of waves, currents, and other erosive forces and serves to prevent the erosion of shoreline areas. In addition, aquatic vegetation provides food, shelter, and special habitat for wildlife. All of these wetland characteristics provide valuable recreation and education resources.

(c) The city has also found that wetlands vary significantly in the degree that they have been altered. Wetlands within the city exhibit great variations in their floral variety, quality of wildlife and fishery habitat, degree of fluctuation in response to storms, the extent to which their shorelines have been altered or eroded, and their relative value in protecting water quality. Therefore, the city has determined that it is necessary and beneficial to classify wetlands based upon their functions and values. The city has also found that it is in the best interest of the general health and welfare of the city to achieve no net loss of wetlands within the community.

(d) The city recognizes that a substantial amount of wetland degradation results from sedimentation and nutrient loading related to construction projects. Therefore, the city finds it necessary to require extraordinary measures to prevent such construction related degradation.

(e) In addition to having regulations that affect the physical impacts within wetland areas the city also finds that it is necessary to regulate the use of lands surrounding wetlands. Wetland buffer strips (as defined in § 153.012), are necessary and beneficial to maintaining the health of wetlands. These strips of land surrounding wetlands protect their shorelines from erosion, while serving to filter sediment, chemicals and other nutrients before stormwater discharges into the wetland. Buffer strips are also beneficial in providing habitat for wildlife.

(f) This section hereby incorporates by reference the Wetlands Conservation Act of 1991 [M.S. §§ 103G.221 et seq., as it may be amended from time to time, (herein after referred to as the WCA)] and any future amendments adopted by the legislature. Any activities exempted from the provisions of the WCA are also exempted from the requirements of this section, insofar as they relate to the WCA. All wetlands, as defined in § 153.012, including those governed by the Department of Natural Resources, are covered by the other provisions of this chapter. Also, there are circumstances under which the strict enforcement of these regulations may be unreasonable and in circumstances that meet the criteria established in §

153.028(C), departures from the strict application of these standards may be permitted.

(g) It is the intent of § 153.046(C)(2) to avoid the alteration and destruction of wetlands. When wetlands are altered or destroyed, mitigation must be provided to recreate the functions and values of the lost wetland.

(2) Purpose and implementation.

(a) Through the adoption and enforcement of this section, the city shall promote the general health, safety, and welfare of its residents by both conserving and protecting wetlands and requiring sound management practices and mitigation as provided for in the WCA when development occurs in the vicinity of wetlands. Through the implementation of this section, the city seeks to accomplish the following purposes:

1. To satisfy the requirements of the WCA as it may be amended and, thereby achieve no net loss of wetlands within the city;

2. To balance the needs to preserve and protect natural resources and systems with both the rights of private property owners and the need to support the efficient use of developable land within the city;

3. To preserve the natural character of the landscape through the maintenance of wetland ecosystems;

4. To promote water quality by maintaining the ability of wetlands to recharge ground water and receive the discharge of ground water, to retain sediment and toxicants and filter and strip nutrients from surface water runoff before it discharges into community lakes and streams, thus avoiding the contamination and eutrophication of these water features; and

5. To provide wildlife habitat and thereby support the maintenance of variety of both plant and animal species within the city.

(b) To accomplish these purposes, the city will:

1. Maintain an inventory of all wetlands within the city;

2. Maintain a system of classification for wetlands within the city and classify the city's wetlands based upon their relative values related to floral variety, wildlife habitat, water quality protection, fishery habitat, flood storage, shoreline protection, and aesthetic, recreational and education benefits.

3. Prepare and maintain a comprehensive set of official maps identifying the location and classification of all wetlands within the city.

4. Establish wetland regulations that are coordinated with floodplain and shoreland protection regulations.

5. Require sound management practices to protect, conserve, maintain, enhance, and improve the quality of wetlands within the community.

6. Enforce standards for the alteration of wetlands when alteration is allowed, including standards and procedures for the mitigation of the loss of wetland areas and their functions and values, when alteration or destruction occurs.

7. Obtain protective easements over or acquire fee title to wetlands as appropriate.

8. Develop and maintain a program to educate the public about the numerous benefits and features that wetlands provide and the adverse effects of improperly managed urban development on wetlands.

(3) General provisions.

(a) Identification and delineation of wetlands.

1. This section shall apply to all land containing wetlands and land within the setback and buffer areas required by this section. Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable federal, state, and city ordinances and regulations. These wetland protection regulations shall not be construed to allow anything otherwise prohibited in the zoning district where the wetland area is located.

2. A wetland is land that meets the definition of "wetlands" as set forth in § 153.012. Wetlands shall be determined according to the United States Army Corps of Engineers Wetland Delineation Manual (January 1987) and regional supplements if available. Wetlands have been or will be identified and the wetland classification as established by the officially adopted city maps shall be prima facie evidence of the location and classification of a wetland. The official maps shall be developed and maintained by the Community Development Department and are open to inspection by the public. The presence or absence of a wetland on the official maps does not represent a definitive determination as to whether a wetland covered by this section is or is not present. Wetlands that are identified during site specific delineation activities but do not appear on the official wetland maps are still subject to the provisions of the section. It will be the responsibility of an applicant to delineate the exact wetland boundary or to determine that no wetland exists on a subject property. All delineations must be reviewed and approved by the city. If an applicant questions whether a wetland exists or disputes its classification, the applicant shall have the burden to supply detailed information for review supporting the applicant's assertion, including but not limited to, topographic, hydrologic, floristic and soil data deemed necessary by the city

to determine the jurisdictional status of the wetland, its exact boundary and its classification. Wetland delineations supplied by applicants shall be certified by a qualified wetland delineator. Wetland delineators must satisfy any certification requirements that may be established by the U.S. Army Corps of Engineers or the Minnesota Board of Water and Soil Resources.

3. Only that portion of a property within the boundaries of a wetland shall be subject to the provisions of this section.

4. This section establishes four wetland classifications as defined in § 153.012: exceptional quality, high quality, medium quality, and low quality. Wetland classifications shall be established through a wetland functional assessment.

(4) General standards. The following standards apply to all lands containing or abutting a wetland:

(a) Septic and soil absorption systems must be set back a minimum of 75 feet from the city approved boundary of the wetland.

(b) The lowest ground floor elevation of a structure shall be two feet above the 100-year flood elevation, three feet above the ordinary high water mark, or three feet above the highest known water level, whichever is greater, of public waters regulated by § 153.046(D) and § 153.046(E), whichever is greater.

(c) Structures intended to provide access across a wetland shall be prohibited unless a permit is obtained in conformance with state regulations.

(d) The MPCA's Best Management Practices and Minnesota Storm Water Manual, as applicable, shall be followed to avoid erosion and sedimentation during the construction process.

(e) Before the city issues a building permit for a lot with a required wetland buffer, the lot owner shall install the wetland monumentation required by § 153.046(C)(4)(f).

(f) In cases where a site is not subject to the wetland buffer strips and setbacks required by § 153.046(C)(4)(e), buildings, swimming pools, patios, decks, drive aisles, and parking lots shall be set back not less than 15 feet from a wetland edge.

(5) Wetland buffer strips and setbacks.

(a) For lots of record created after effective date of this chapter as denoted in § 153.004, a buffer strip shall be maintained abutting all wetlands. The setback and buffer provisions of § 153.046(C)(4) shall not apply to lots of record created before the effective date of this chapter. The

city does however; strongly encourage the use of a wetland buffer and setback on all lots in the city.

(b) Wetland buffer strips and structure setbacks shall apply to all parcels of land whether or not the wetland is on the same parcel as a proposed development.

(c) Buffer strip vegetation shall be established and maintained in accordance with the requirements of this section. Buffer strips shall be identified within each lot by permanent monumentation approved by the city.

(d) For roadways that must be aligned either adjacent to or across wetlands and are subject to WCA replacement requirements, additional wetland filling to create a buffer strip shall not be required. Trails that are intended to serve an interpretive function may also be exempted from the buffer requirement. All other roadways and trails shall meet the buffer standards established in division (h) below.

(e) If the area of the buffer has a preconstruction slope of 12% or greater, the buffer shall be at the applicable maximum width for the wetland classification. The use of a meandering buffer strip to maintain a natural appearance is encouraged but not required in areas of flat topography.

(f) The required structure setback shall apply to all structures, except that such structure setback shall not apply to roadways and trails and their related retaining walls and fences.

(g) Pursuant to the regulations of this section, the following dimensional requirements shall apply for wetland buffers and setbacks:

TABLE 3-19: WETLAND BUFFER AND SETBACKS FOR EXISTING WETLANDS, IMPACTED WETLANDS, AND MITIGATED WETLANDS

Exceptional

High

Medium

Low

TABLE 3-19: WETLAND BUFFER AND SETBACKS FOR EXISTING WETLANDS, IMPACTED WETLANDS, AND MITIGATED WETLANDS

Exceptional

High

Medium

Low

Wetland buffer width (minimum)

50 ft.

40 ft.

10 ft.

10 ft.

Wetland buffer width (maximum) [1]

100 ft.

60 ft.

50 ft.

50 ft.

Wetland buffer average width

75 ft.

50 ft.

30 ft.

25 ft.

Structure setback (from buffer) [2]

15 ft.

15 ft.

15 ft.

15 ft.

Total (average)

90 ft.

65 ft.

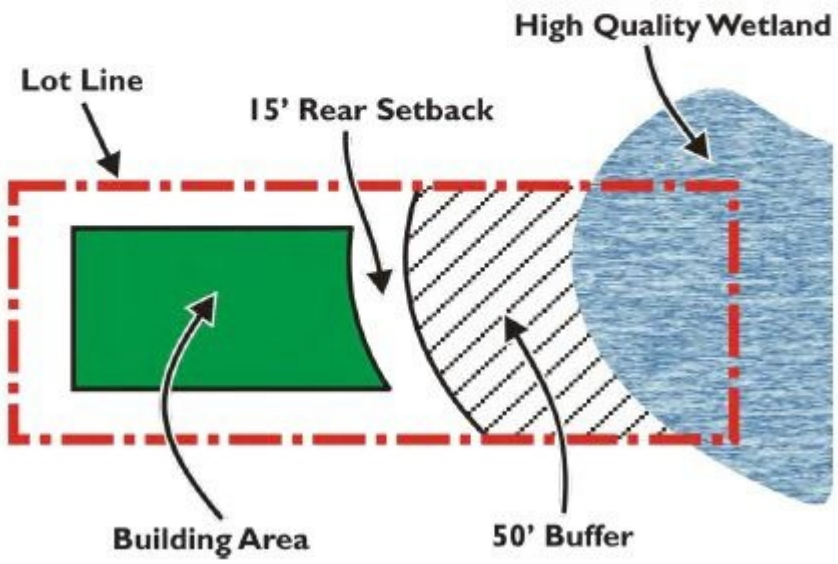
45 ft.

40 ft.

[1]: Buffer widths in excess of the listed maximums shall not be used in calculating the average buffer width.

[2]: These setbacks shall take precedence over other setbacks required in this chapter.

Figure 3-4: Example of Buffer and Setback Applied to a High Quality Wetland



(6) Monument required. A permanent wetland buffer monument shall be installed and maintained at each lot line where it crosses a wetland buffer, and where needed to indicate the contour of the buffer, with a maximum spacing of 200 feet of wetland edge.

(7) Buffer strip vegetation performance standards.

(a) Where acceptable natural vegetation exists in buffer strip areas, such vegetation shall be retained. A buffer strip has acceptable natural vegetation if it:

1. Has a continuous, dense layer of perennial grasses that have been uncultivated or unbroken for at least five consecutive years, or

2. Has an overstory of trees or shrubs with at least 80% canopy closure that have been uncultivated or unbroken for at least five consecutive years, or

3. Contains a mixture of the plant communities described in 1. and 2. above, that have been uncultivated or unbroken for at least five consecutive years.

(b) Notwithstanding the performance standards outlined in division (7)(a) above, the city may determine existing buffer vegetation to be unacceptable if:

1. It is composed of undesirable plant species (including but not limited to reed canary grass, common buckthorn, purple loosestrife, leafy spurge or noxious weeds), or

2. It is lacking a layer of organic thatch or duff, or

3. Has topography that tends to channelize the flow of surface runoff, or

4. For some other reason it is unlikely to retain nutrients and sediment.

(c) Where buffer areas, or a portion thereof, are not vegetated or have been cultivated or otherwise disturbed within five years of the permit application, such areas shall be re-planted and maintained according to each of the following standards:

1. The soil in wetland buffer strips shall be amended, as necessary, to ensure that the soil has an organic content of not less than 10% and not more than 35%.

2. Buffer zones shall be planted with a Board of Water and Soil Resources (BWSR) approved seed mix containing 100% perennial native plant species, except for a one-time planting of an annual nurse or cover crop such as oats or rye.

3. The seed mix to be used shall consist of at least 12 pounds pure live seed (PLS) per acre of native prairie grass seed and five pounds PLS per acre of native forbs. Native prairie grass and native forb mixes shall contain no fewer than four and five species, respectively.

4. The annual nurse or cover crop shall be applied at a rate of 20 pounds per acre.

5. Native shrubs may be substituted for forbs. Such shrubs may be bare root seedlings and shall be planted at a rate of 60 plants per acre. Shrubs shall be distributed so as to provide a natural appearance and shall not be planted in rows.

6. Any ground cover or shrub plantings installed in buffer areas are independent of landscaping requirements set forth elsewhere in the City Code and city policy.

7. Native prairie grasses and forbs shall be planted by a qualified contractor using a drill designed for native prairie grass seedings, such as a Truax or Nesbitt Native Grass Drill or a John Deere 1550 Power-Till Seeder.

8. No fertilizer shall be used in establishing new buffer zones, except on highly disturbed sites when deemed necessary to establish acceptable buffer vegetation and then limited to amounts indicated by an accredited soil testing laboratory.

9. All seeded areas shall have a two-inch thick application of compost (Mn/DOT Grade 1 Section 3890) or be mulched immediately with clean straw at a rate of one and one-half tons per acre. Mulch shall be anchored with a disk or tackifier.

10. Buffer zones (both natural and created), shall be protected by silt fence during construction and the fence shall remain in place until the area crop is established.

11. Applicants may obtain from the city a set of standard seeding and planting specifications for buffer zones which meet all the city requirements.

(d) During the first five years after initial planting, the developer shall submit to the city an annual report documenting the progress for establishment of the buffer. The report shall include a map of the buffer location, a description of compliance with the performance standards, a description of activities completed within the past year, a description of activities planned for the upcoming year, a map of plant communities within the buffer boundary including square footage estimates of the areas of native plantings and invasive or non-native vegetation, and other information as may be requested by the City of Monticello. Until such time as the buffer is accepted by the city, the developer shall be required to replant any buffer vegetation that does not survive. After the city has accepted the buffer, if the condition of the buffer area changes through natural processes not caused by the property owner, the owner shall not be required to re-establish the buffer area to meet the standards established in this subdivision.

(8) Encroachment in required setback and buffer areas.

(a) Patios and decks may encroach up to a maximum of six feet into required structure setback areas. Porches may not encroach into required structure setback areas. Any fence or retaining wall located within the required structure setback area shall be designed and constructed so as to not obstruct the flow of stormwater.

(b) Water quality ponds may encroach into required wetland buffer areas, provided that the amount of buffer encroached upon does not exceed 50% of the total area required for such ponding, and provided that the amount of buffer encroached upon does not exceed 50% of the total area required for buffering. These limitations may be exceeded where two-cell water quality ponding is utilized.

(c) Wetlands and required wetland buffer areas must be kept free of all structures and features, including fences and play equipment.

(d) Wetlands and required wetland buffer areas shall not be used for outside storage of household or personal items, lawn equipment, furniture, firewood, parts, yard waste, and the like.

(9) Variances.

(a) Requests for variances shall be made in accordance with the procedures and requirements set forth in § 153.028(C).

(b) Variances shall only be granted when the standards and criteria set forth in § 153.028(C) have been met. Variances shall not be granted which would circumvent the intent and purposes of § 153.046(C)(4).

(O) Wild and Scenic Recreational River District.

(1) Purpose. The purpose of this district is to protect and preserve the scenic, recreational, natural and historical values of the Mississippi River in the city by carefully controlling development of this river corridor consistent with the state Wild and Scenic River Act (M.S. §§ 103F.301 et seq., as they may be amended from time to time) and Minn. Rules 6105.0010 to 6105.0070; 6105.0150 to 6105.0250; and as applicable, the provision of 6120.2600 to 6120.3900.

(2) Designation of district. In order to preserve and protect the Mississippi River and its adjacent land which possess scenic, recreational, natural and historical values, the Mississippi River in the city has been given a recreational river classification, and lands adjacent to the river are hereby designated by land use districts, the boundaries of which are based upon the Mississippi River Management Plan, Minn. Rules 6105.0800--6105.0960. The provisions of § 153.046(E) shall apply to all lands within the jurisdiction of Monticello that are denoted on the official zoning map as being within the Wild and Scenic Recreational River overlay district. In case of conflict between the map and the property descriptions and boundaries in Minn. Rules 6105.0910 and 6105.0950, the latter shall prevail.

(3) District application. The regulations and requirements imposed by the WSRR overlay district shall be in addition to those established for the base zoning districts which jointly apply. Under the joint application of standards, the more restrictive requirements shall apply. Any person contemplating development in the WSRR overlay district should review the base district requirements with the Community Development Department to determine which regulations will apply.

(4) Substandard lots. Any lot of record filed in the office of the county recorder on or before July 1, 2000, which does not meet the dimensional

requirements of this chapter may be allowed as a building site subject to the following:

(a) Such use is permitted in the land use district.

(b) The lot was in separate ownership on the date of enactment of the ordinance from which this chapter is derived.

(c) All sewage disposal and sewage setback requirements of the shoreland overlay district are met.

(d) The lot is at least 10,000 square feet in area.

(e) If in a group of two or more contiguous lots under a single ownership, any individual lot does not meet the lot width requirements of the local regulation, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land, each meeting lot width requirements.

(5) Substandard uses. Any uses in existence on a lot of record filed in the office of the county recorder on or before July 1, 2000, which are permitted uses in accordance with §§ 153.090 through 153.093, but do not meet minimum setbacks or other dimensional requirements of the ordinance are to be considered as substandard uses. All substandard uses, except for substandard signs, shall be allowed to continue subject to the following conditions and exceptions:

(a) Any structural alteration or addition to a substandard use which will increase the substandard dimension(s) shall not be allowed.

(b) Substandard signs shall be gradually amortized over a period of time not to exceed five years once amortization has been initiated by the city.

(6) Allowable uses. The allowable uses in the WSRR overlay district shall be as allowed in §§ 153.090 through 153.093 for the underlying zoning classification provided the uses are in conformance with the criteria for Urban River Class Standards in Minn. Rules 6120.3000, 6120.3100 and 6120.3200; and with the criteria for recreational rivers in 6105.0100 subpart 3.

(7) Conditional uses.

(a) Conditional uses allowable within the WSRR overlay district shall be reviewed under the provisions outlined in § 153.028(D), and interim use permits for uses or structures within WSRR overlay district shall be reviewed under the provisions outlined in § 153.028(E).

(b) Any structure(s) associated with a conditional use which are proposed to be located upon steep slopes greater than 12% shall adhere to the following conditions:

1. The structure, in a manner judged acceptable by the city, shall be screened from view of the river and adjacent shorelands as much as possible assuming summer, leaf-on conditions.

2. An adequate conforming sanitary sewer and water system can be established on the site.

3. All provisions of § 153.069 are adhered to as part of the conditional use permit.

(8) Recreational river land use subdistricts – standards, lot dimensions, setbacks, and impervious surface requirements.

(a) Areas covered. The following areas of the city are covered by this division: all areas of the wild and scenic recreational river district within the city.

(b) Standards for lots. Lots within the WSRR overlay district shall conform to the standards in Table 3-20. Where these standards conflict with the standards of the base zoning districts, the more restrictive standard shall prevail.

TABLE 3-20: WILD AND SCENIC LOT REQUIREMENTS

River Type

Lot Size

Lot Width [1]

Wild

6 acres

300 feet

Scenic

4 acres

250 feet

Recreational

2 acres

200 feet

[1]: Lot width shall be met at both the OHW and at the required setback from the OHW in accordance with § 153.010(B)(1)(i).

(c) Standards for principal structures. Principal structures within the WSRR overlay district shall conform to the standards in Table 3-21. Where these standards conflict with the standards of the base zoning districts, the more restrictive standard shall prevail.

TABLE 3-21: WILD AND SCENIC PRINCIPAL STRUCTURE SETBACKS

TABLE 3-21: WILD AND SCENIC PRINCIPAL STRUCTURE SETBACKS

Front yard setback and setback from rights-of-way or roadway easements (setbacks must be met from all roads when a lot is bounded by two or more roadways)

Arterial road

30 feet

Collector road

30 feet

Local road

30 feet

Landlocked parcel

30 feet

Unsewered

Sewered

Side yard setbacks

30 feet

10 feet

Rear yard setbacks

50 feet

30 feet

Setback from the OHW of the Mississippi River

150 feet

100 feet

Setback from a bluff line

75 feet

75 feet

Sewer setback from the OWH

75 feet

75 feet

(d) Accessory structure setbacks. Accessory structures within the WSRR overlay district shall conform to the standards in Table 3-22. Where these standards conflict with the standards of the base zoning districts, the more restrictive standard shall prevail.

TABLE 3-22: WILD AND SCENIC ACCESSORY STRUCTURE SETBACKS

Unsewered

Sewered

Setback from the OHW of the Mississippi River

75 feet

50 feet

Setback from a bluff line

30 feet

30 feet

(e) Impervious surface requirements.

1. Impervious surfaces on lots within the WSRR overlay district shall adhere to the following standards:

a. Impervious surface coverage of lots must not exceed 25% of the lot area.

b. When constructed facilities are used for stormwater management, they must be designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

2. The provisions of division 1. above may be varied without a variance if all of the following criteria and standards are met:

a. All structures and impervious surfaces are located on slopes less than 12%. The physical alteration of slopes shall not be permitted for the purpose of overcoming this limitation.

b. The site development is designed, implemented, and maintained using the most applicable combination of comprehensive practices that prevent flooding, pollutant, erosion and sedimentation problems consistent with Protecting Water Quality in Urban Areas: Best Management Practices for Minnesota, Minnesota Pollution Control Agency, October 1989, or as amended, which is incorporated by reference, available at the state law library and not subject to frequent change.

c. A site development, maintenance, and inspection plan incorporating the comprehensive practices of this section is submitted and approved by the city prior to the issuance of an impervious surfacing permit and the plan is implemented.

d. The city may impose additional conditions determined necessary to protect the public health, safety, and welfare.

(9) Building height. The following minimum requirements shall be observed in the WSRR overlay district:

(a) The maximum height of principal structures shall not exceed 35 feet, except that the maximum height for principal structures shall not exceed 25 feet when such structure is subject to the requirements of the Shoreland Overlay District, in which case the requirements of the Shoreland District shall apply.

(b) The maximum height of accessory structures shall not exceed 25 feet.

(10) Additional structure and use standards.

(a) Placement of structures. Structures shall not be located on slopes greater than 12% except by conditional use permit as provided for in § 153.046(D)(7).

(b) Maximum density. The maximum density in the WSRR overlay district shall not exceed one dwelling unit per lot.

(c) Multiple unit dwelling structures. Multiple-family dwelling units shall meet the following additional standards:

1. Each building must be set back at least 200 feet from the ordinary high water level;

2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building; and

3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building (i.e. only one docking facility per lot).

(d) Stormwater management. Subject to other more restrictive limitations which may be imposed by this chapter, the following general and specific standards shall apply:

1. General standards.

a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

b. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

2. Specific standards.

a. When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

b. New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(e) Special provisions for commercial, industrial, public/semipublic, agricultural, and forestry.

1. Standards for commercial, industrial, public, and semipublic uses.

a. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs for access to and use of public waters may be located on parcels or lots with frontage on public waters. Subject to other more restrictive limitations which may be imposed by this chapter, those uses with water-oriented needs shall meet the following standards:

(i) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this chapter, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures;

(ii) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(iii) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

A. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.

B. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten feet above the ground, and shall not exceed 32 square feet in size. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across public waters; and

C. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

b. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary

high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture use standards.

a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the natural resources conservation service, as provided by a qualified individual or agency.

(i) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(ii) The bluff impact zone is equal to the bluff and land located within 20 feet from a bluff line.

b. Animal feedlots shall meet the requirements of this chapter, as well as the following standards:

(i) New feedlots shall not be located in the WSRR overlay district; and

(ii) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within the bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

c. Use of fertilizer, pesticides, or animal wastes within the WSRR overlay district shall be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

3. Forest management standard.

a. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment--Forestry and the provisions of Water Quality in Forest Management--Best Management Practices in Minnesota.

b. Use of fertilizer, pesticides, or animal wastes within the WSRR overlay district shall be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

4. Extractive use standards.

a. Site development and restoration plan. An extractive use site development and restoration plan shall be developed, approved, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.

b. Setbacks for processing machinery. Processing machinery shall be located consistent with setback standards for structures from the ordinary high water level and from blufflines.

(11) Vegetative cutting. Selective cutting of trees in excess of four inches in diameter at four feet height within the WSRR overlay district and within 100 feet of the ordinary high water level and 20 feet landward of the bluffline shall be subject to the following:

(a) Clearcutting, except for any authorized public services such as roads and essential services, shall not be permitted. Clearcutting for essential services, such as telephone lines, substations, and related structures, shall require a special permit issued by the City Council in accordance with § 153.028(N).

(b) Cutting is spaced in several cutting operations and a continuous tree cover is maintained, uninterrupted by large openings. In cases where the existing tree cover has been interrupted by large openings in the past, selective cutting may be performed so as to maintain a continuous tree cover in the remaining wooded areas.

(c) The above cutting provisions shall not be deemed to prevent:

1. The removal of diseased or insect-infested trees, or of rotten or damaged trees that present safety hazards.

2. Pruning understory vegetation, shrubs, plants, bushes, or grasses, or harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at four-foot height.

(d) Except in cases where vegetative cutting has been approved as part of a subdivision or other development, any person proposing vegetative cutting shall apply to the city for a vegetative cutting permit. Application forms for the permit shall be provided by the Community Development Department and require the following information:

1. Name and address of applicant.

2. The name and address of the owner of the land.

3. The address and legal description of the land involved.

4. The purpose of the vegetative cutting.

5. A description of the type and amount of vegetation to be cut.

6. The highway, street, or streets, or other public ways in the city upon and along which any material is to be hauled or carried.

7. An estimate of the time required to complete the vegetative cutting.

8. A site plan showing the proposed cutting area.

9. A plan or statement demonstrating that the activity will in no way jeopardize the public health, safety and welfare.

10. A statement that the applicant will comply with all conditions prescribed by the city.

(12) Clearcutting restrictions. Clearcutting within the WSRR overlay district shall be subject to the following standards and criteria:

(a) Clearcutting shall not be used as a cutting method where soil, slope, or other watershed conditions are fragile and subject to injury.

(b) Clearcutting shall be conducted only where clearcut blocks, patches, or strips are, in all cases, shaped and blended with the natural terrain.

(c) The size of clearcut blocks, patches, or strips shall be kept at the minimum necessary.

(d) Where feasible, all clearcuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clearcutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same spring or the following spring.

(e) Except in cases where clearcutting has been approved as part of a subdivision or other development, any person proposing clearcutting shall apply to the city for a clearcutting permit. Application forms for the permit shall be provided by the Community Development Department and require the following information:

1. Name and address of applicant.

2. The name and address of the owner of the land.

3. The address and legal description of the land involved.

4. The purpose of the clearcutting.

5. A description of the type and amount of clearcutting to be conducted.

6. The highway, street, or streets, or other public ways in the city upon and along which any material is to be hauled or carried.

7. An estimate of the time required to complete the vegetative cutting.

8. A site plan showing the proposed cutting area.

9. A plan or statement demonstrating that the activity will in no way jeopardize the public health, safety and welfare.

10. A statement that the applicant will comply with all conditions prescribed by the city.

(13) Grading and filling. Any grading and filling conducted within the WSRR overlay district shall require a permit and shall comply with the following:

(a) The provisions of § 153.028(N) are satisfactorily met.

(b) Grading and filling of the natural topography which is not accessory to a permitted or conditional use shall not be allowed.

(c) Grading and filling of the natural topography which is accessory to a permitted or conditional use shall not be conducted without a grading and filling permit from the zoning authority.

(d) Grading and filling of the natural topography which is accessory to a permitted or conditional use shall be performed in a manner which minimizes earth moving, erosion, tree clearing and the destruction of natural amenities.

(e) Grading and filling of the natural topography shall also meet the following standards:

1. The smallest amount of bare ground is exposed for as short a time as feasible.

2. Temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.

3. Methods to prevent erosion and to trap sediment are employed.

(f) Excavation of material from, or filling in the river, or construction of any permanent structures or navigational obstructions therein is prohibited, unless authorized by a permit from the Commissioner of the Department of Natural Resources pursuant to M.S. § 103G.245, as it may be amended from time to time.

(g) Draining or filling of wetlands as defined by this chapter shall be expressly prohibited.

(14) Utility transmission lines. All utility transmission crossings of land within the WSRR overlay district shall require a conditional use permit. The construction of such transmission services shall be subject to the standards and criteria of Minn. Rules 6105.0170 and 6105.0180.

(15) Public roads. In addition to such permits as may be required by M.S. § 103G.245, as it may be amended from time to time, a conditional use permit shall be required for any construction or reconstruction of new public roads within the WSRR overlay district. Such construction or reconstruction shall be subject to the standards and criteria of Minn. Rules 6105.0190 and 6105.0200. A conditional use permit shall not be required for marginal access streets which are intended to serve primarily as an access to abutting properties.

(16) Land suitability. No land shall be subdivided which is determined by the city or the Commissioner of the Department of Natural Resources to be unsuitable by reason of flooding, inadequate drainage, soil and rock formation with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or the city.

(17) Nonconforming use. All uses in existence prior to July 1, 2000, which are lawfully permitted uses within the wild and scenic recreational river district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this chapter shall be allowed to continue subject to the following conditions and exceptions:

(a) Any structural alteration or addition to a nonconforming use which will increase the substandard dimensions shall not be allowed.

(b) Substandard signs shall be gradually eliminated over a period of time not to exceed five years from the date of enactment or amendment of this division.

(18) Sewage treatment.

(a) Public system required. Publicly owned sewer systems must be used.

(b) Nonconforming sewage treatment systems. A nonconforming sewage treatment system not meeting the requirements of applicable rules of the state Department of Health, the state pollution control agency, specifically Minn Rules Ch. 7080, for individual sewage treatment systems, and any other applicable local government standards shall be brought into conformity or discontinued within five years of the date of enactment of the

Wild and Scenic Recreational River District Ordinance from which this division is derived.

(19) Water supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state Department of Health and the state pollution control agency and administrative procedures of this chapter. Private wells must be located, maintained, and sealed in accordance with or in a more thorough manner than the water well construction code of the state Department of Health.

(20) Plats. Copies of all plats within the Wild and Scenic Recreational River District shall be forwarded to the Commissioner of the Department of Natural Resources within ten days of approval by the city. Approval of a plat which is inconsistent with this division is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics.

(21) Planned unit development. A planned unit development may be allowed per the requirements of § 153.028(O) only when the proposed development provides a better means of preserving agricultural land, open space, woods, scenic views, wetlands, and other features of the natural environment than traditional subdivision development. Planned unit developments shall be reviewed under the provisions outlined in § 153.028(O), with the following additional criteria:

(a) Preliminary plans are approved by the Commissioner of the Department of Natural Resources prior to their enactment by the City Council.

(b) A publicly owned sewer systems is used.

(c) Open space is permanently preserved. This may be accomplished through the use of restrictive deed covenants, public dedications, granting of scenic easements, or other equally effective and permanent methods.

(d) There is not more than one centralized boat launching facility for each cluster of homes.

(e) The only uses that shall be allowed within the development are those allowed under § 153.028(O) and the underlying zoning district.

(f) Under the joint application of standards, the more restrictive provisions of this chapter shall apply.

(22) Variances.

(a) Variances shall be reviewed under the provisions outlined in § 153.028(C) with the following additional variance criteria:

1. Granting of the variance is not contrary to the purpose and intent of this section and is consistent with Minn. Rules 6105.0010--6105.0250 and 6105.0800--6105.0960.

2. Granting of the variance will not allow any use which is neither a permitted or conditional use in the land use district in which the subject property is located.

(b) Exception: Where a setback pattern from the ordinary high water level has already been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. This provision shall apply only to lots which do not meet the applicable minimum lot width requirement.

(c) Appeals from variance decisions on shoreland issues may be made in accordance with the provisions of § 153.028(H) and also Minnesota Statutes.

(23) Notice to the DNR of proposed actions within the Wild and Scenic Recreational River District.

(a) Notification of proposals.

1. For properties within the Wild and Scenic Recreational River District, the Community Development Department shall notify the Commissioner of the Department of Natural Resources of any application for a variance, ordinance amendment (including proposed changes to district lines), conditional use permits, PUDs, or plats inconsistent with the ordinance.

2. Notifications for ordinance changes and PUDs shall consist of a copy of the proposed ordinance amendment(s), a copy of the proposed PUD, and all other application materials as may be needed by the Commissioner of the Department of Natural Resources or the commissioner’s designated representative to fully understand the proposal.

3. Notifications for variances, plats or CUPs may consist simply of the notice of the applicable public hearing, or if a public hearing is not required, a copy of application materials as may be needed by the Commissioner of the Department of Natural Resources to fully understand the proposal.

4. Notification shall be sent so as to be received by the Commissioner of the Department of Natural Resources at least 30 days prior to the planned hearing or meeting to consider the requested action.

(b) Notification of final decision. The Community Development Department shall notify the Commissioner of the Department of Natural

Resources of the city’s final decision on the proposed action within ten days of the decision.

(c) Effective date of decision.

1. Decisions on variances, plats or CUPs become effective upon completion of the applicable review process at the city level.

2. Decisions on PUDs and ordinance amendments within or affecting the Wild and Scenic Recreational River District become effective upon the happening of any of the following events, whichever first occurs:

a. The final decision taken by the city has previously received certification of approval from the Commissioner of the Department of Natural Resources.

b. The city receives certification of approval from the Commissioner of the Department of Natural Resources after its final decision.

c. Thirty days have elapsed from the day the Commissioner of the Department of Natural Resources received notice of the final decision, and the city has received from the Commissioner neither certification of approval nor notice of non-approval.

d. The Commissioner of the Department of Natural Resources certifies his approval within 30 days after conducting a public hearing.

(d) Hearing after non-approval. In case the Commissioner of the Department of Natural Resources gives notice of a PUD or proposed ordinance amendment, either the applicant or Community Development Department may, within 30 days of said notice, file with the Commissioner a demand for a hearing. If the demand for a hearing is not made within 30 days, the notice of non-approval becomes final.

1. The hearing shall be held within 60 days of the demand and after at least two weeks' published notice.

2. The hearing shall be conducted in accordance with M.S. § 103G.311, subds. 2, 6 and 7, as it may be amended from time to time.

3. The Commissioner of the Department of Natural Resources shall either certify his approval or disapproval of the proposed action within 30 days of the hearing.

(P) Shoreland District.

(1) Statutory authorization and policy.

(a) Statutory authorization. This shoreland ordinance is adopted pursuant to the authorization and policies contained in M.S. Chapter 103F,

as it may be amended from time to time, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in M.S. Chapter 462, as it may be amended from time to time.

(b) Policy. The uncontrolled use of shorelands of the City of Monticello, Minnesota affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Monticello.

(2) General provisions.

(a) Jurisdiction.

1. The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in § 153.046(E)(4).

2. Shoreland shall include all land within 1,000 feet of the ordinary high water level (OHWL) of a lake and 300 feet of a river and its designated floodplain as depicted on the City of Monticello’s Official Zoning Map.

3. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than ten acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government’s shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this chapter.

(b) Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations.

(c) Enforcement. The Community Development Department is responsible for the administration and enforcement of this chapter. Any violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of permits, variances or conditional uses) shall be subject to the remedies and penalties outlined in § 153.999.

(d) Interpretation. In their interpretation and application, the provisions of this overlay district shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(e) Abrogation and greater restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

(3) Administration.

(a) Permits required.

1. A permit is required for the construction of buildings or building additions (including but not limited to related activities such as construction of decks or signs), the installation and/or alteration of sewage treatment systems, and all grading and filling activities as required by this chapter. Application for a permit shall be made to the Community Development Department pursuant to the applicable regulations in §§ 153.025 through 153.028. The application shall include the necessary information so that the Community Development Department can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

2. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system shall be reconstructed or replaced in accordance with the provisions of this chapter.

(b) Determination of zoning compliance. The Community Development Department, in reviewing a required permit, shall make a determination as to whether the proposal is compliant with all provisions of § 153.046(F) Shoreland District. Any use, arrangement, or construction not authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in § 153.999.

(c) Variances.

1. Variances shall be reviewed under the provisions outlined in § 153.028(C) with the following additional requirements:

a. No variance shall circumvent the general purposes and intent of the shoreland overlay district.

b. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

c. The variance application must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the

property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

2. A copy of the notice for the public hearing(s) to consider a variance must be sent to the Commissioner of the Department of Natural Resources or the commissioner's designated representative and postmarked at least ten days before the hearings.

3. A copy of all decisions granting variances to shoreland regulations shall be forwarded by mail to the Commissioner of the Department of Natural Resources within ten days of such action.

4. Appeals from variance decisions on shoreland issues may be made in accordance with the provisions of § 153.028(H) and also Minnesota Statutes.

(d) Conditional uses. Conditional uses allowable within shoreland areas shall be reviewed under the provisions outlined in § 153.028(D), and interim use permits for uses or structures within shoreland areas shall be reviewed under the provisions outlined in § 153.028(E), with the following additional requirements:

1. Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

b. The visibility of structures and other facilities as viewed from public waters is limited assuming summer, leaf-on conditions;

c. The site is adequate for water supply and on-site sewage treatment; and

d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

2. Conditions attached to conditional use permits. The Community Development Department, upon consideration of the criteria listed above and the purposes of this chapter, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

a. Increased setbacks from the ordinary high water level;

b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

3. Notification procedures.

a. A copy of the notice for the public hearing(s) to consider a conditional use permit must be sent to the Commissioner of the Department of Natural Resources or the commissioner's designated representative and postmarked at least ten days before the hearings.

b. A copy of all decisions granting a conditional use permit subject to shoreland regulations shall be forwarded by mail to the Commissioner of the Department of Natural Resources within ten days of such action.

(e) Proposed Shoreland District Amendments and PUDs.

1. Notification required. The Community Development Department shall submit to the Commissioner of the Department of Natural Resources (or the commissioner's designated representative), a copy of any application for a zoning amendment to § 153.046(E), or an application for a planned unit development (PUD) within the shoreland district for certification. The materials shall be sent so as to be received by the Commissioner at least 30 days prior to such hearing or meeting to consider such action. The notice of application shall include a copy of the proposed ordinances or amendment, or a copy of the proposed planned unit development along with a description of the request.

2. Notification of final decision. The Community Development Department shall notify the Commissioner of the Department of Natural Resources of its final decision on the proposed action within ten days of the decision.

3. Effective date of decision. The ordinance amendment or PUD becomes effective upon the happening of any of the following events, whichever first occurs:

a. The final decision taken by the city has previously received certification of approval from the Commissioner of the Department of Natural Resources.

b. The city receives certification of approval from the Commissioner of the Department of Natural Resources after its final decision.

c. Thirty days have elapsed from the day the Commissioner of the Department of Natural Resources received notice of the final decision, and

the city has received from the Commissioner neither certification of approval nor notice of non-approval.

d. The Commissioner of the Department of Natural Resources certifies his approval within 30 days after conducting a public hearing.

4. Hearing after non-approval. In case the Commissioner of the Department of Natural Resources gives notice of non-approval of an ordinance amendment or PUD, either the applicant or Community Development Department may, within 30 days of said notice, file with the Commissioner a demand for a hearing. If the demand for a hearing is not made within 30 days, the notice of non-approval becomes final.

a. The hearing shall be held within 60 days of the demand and after at least two weeks' published notice.

b. The hearing shall be conducted in accordance with M.S. § 103G.311, subds. 2, 6 and 7, as it may be amended from time to time.

c. The Commissioner of the Department of Natural Resources shall either certify his approval or disapproval of the proposed action within 30 days of the hearing.

(4) Shoreland classification system and land use districts.

(a) Shoreland classification system. The public waters of the City of Monticello have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Wright County, Minnesota. The Mississippi River is regulated by § 153.046(D) Wild and Scenic Recreational River District.

1. The shoreland area for the water bodies listed in divisions 2. and 3. below shall be as defined in this chapter and as shown on the Official Zoning Map.

2. Lakes.

a. Natural environment lakes.

(i) Mud Lake (DNR ID: 86-68 P).

b. Recreational Development Lakes – RESERVED.

c. General development lakes.

(i) Pelican Lake (DNR ID: 86-31 P).

(ii) Long Lake (DNR ID: 86-69 P).

(iii) Slough Lake (DNR ID: 86-78 P).

3. Rivers and streams.

a. Remote Rivers – RESERVED.

b. Forested Rivers – RESERVED.

c. Transition Rivers – RESERVED.

d. Agricultural Rivers – RESERVED.

e. Tributary streams.

(i) Otter Creek.

(ii) All protected watercourses in the City of Monticello shown on the Protected Waters Inventory Map for Wright County, a copy of which is hereby adopted by reference, that are not given a classification in divisions a. through e. above shall be considered “tributary streams.”

(b) Land use district descriptions.

1. Criteria for designation. The land use districts in division 2. below and the delineation of a land use district’s boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan.

2. Land use in shoreland areas. Land uses on parcels within the shoreland district shall be regulated by the underlying zoning district or by Table 3-23 below, whichever is more restrictive.

TABLE 3-23: SHORELAND USES BY LAKE CLASSIFICATION

TABLE 3-23: SHORELAND USES BY LAKE CLASSIFICATION

Lake Classes in SPECIAL PROTECTION Districts (within the Wild and Scenic Recreational River Overlay District)

Uses

General Development

Recreational Development

Natural Environment

Forest management

P

P

P

Sensitive resource management

P

P

P

Agricultural: cropland and pasture

P

P

P

Agricultural feedlots

C

C

C

Parks and historic sites

C

C

C

Extractive use

C

C

C

Single residential

C

C

C

Mining of metallic minerals and peat

P

P

P

Lake Classes in LOW DENSITY RESIDENTIAL Districts (within the A-O, R-A, R-1, R-2 or T- N Districts)

Single residential

P

P

P

Semipublic

C

C

C

Parks and historic sites

C

C

C

Extractive use

C

C

C

Duplex, triplex, quad residential

P

P

C

Forest management

P

P

P

Mining of metallic minerals and peat

P

P

P

Lake Classes in HIGH DENSITY RESIDENTIAL Districts (within the R-3 or M-H Districts)

Residential planned unit developments (PUDs)

C

C

C

Single residential

P

P

P

Surface water-oriented commercial (as accessory to a residential PUD)

C

C

C

Semipublic

C

C

C

Parks and historic sites

C

C

C

Duplex, triplex, quad residential

P

P

P

Forest management

P

P

P

Lake Classes in WATER-ORIENTED COMMERCIAL Districts (within a Business District AND includes a proposed water-oriented use)

Surface water-oriented commercial

P

P

C

Commercial planned unit development

C

C

C

Public, semipublic

C

C

C

Parks and historic sites

C

C

C

Forest management

P

P

P

Lake Classes in GENERAL USE Districts (within a business or industrial district)

Commercial

P

P

C

Commercial planned unit development

C

C

C

Industrial

C

C

N

Public, semipublic

P

P

C

Extractive use

C

C

C

Parks and historic sites

C

C

C

Forest management

P

P

P

Mining of metallic minerals and peat

P

P

P

(P) = Permitted Use, (C) = Conditional Use, and (N) = Prohibited Use

(5) Shoreland development standards.

(a) In general.

1. Except as may be specifically provided, no new lot shall be created—by plat or by metes and bounds description—which does not meet the minimum dimensional requirements outlined in § 153.046(E)(5).

2. No lot area shall be so reduced or diminished so that the yards or other open spaces are smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations in this chapter.

3. The area of any lot shall not be reduced below the minimum standards specified herein.

(b) Lot standards. Tables 3-23, 3-24, and 3-25 list the lot standards for lands within the shoreland district.

1. Structure setbacks shall be measured from the ordinary high water mark (OHW) or the highest known water level;

2. Lot widths shall be met at both the OHW and at the required structural setback from the OHW.

3. Lot area shall be calculated based on land area above the OHW.

TABLE 3-24: SHORELAND LOT STANDARDS FOR SEWERED LAKES

Residential Lot Area (square feet)

Lake Class

Lakeshore

Non-Lakeshore

Single

Duplex

Triplex

Quad

Single

Duplex

Triplex

Quad

TABLE 3-24: SHORELAND LOT STANDARDS FOR SEWERED LAKES

Residential Lot Area (square feet)

Lake Class

Lakeshore

Non-Lakeshore

Single

Duplex

Triplex

Quad

Single

Duplex

Triplex

Quad

Natural Environment

40,000

70,000

100,000

130,000

20,000

35,000

52,000

65,000

Recreational Development

20,000

35,000

50,000

65,000

15,000

26,000

38,000

49,000

General Development

15,000

26,000

38,000

49,000

10,000

17,500

25,00 0

32,500

Residential Lot Width

Natural Environment

125

225

325

425

125

220

315

410

Recreational Development

75

135

195

255

75

135

190

245

General Development

75

135

195

255

75

135

190

245

Setbacks (feet)

Lake Class

LAKESHORE LOTS (distances in feet)

Structure Setback from OHW

Shore Impact Zone from OHW

Natural Environment

150

75

Recreational Development

75

37.5

General Development

50

TABLE 3-25: SHORELAND LOT STANDARDS FOR UNSEWERED LAKES

Residential Lot Area (square feet)

Lake Class

Lakeshore

Non-Lakeshore

Single

Duplex

Triplex

Quad

Single

Duplex

Triplex

Quad

TABLE 3-25: SHORELAND LOT STANDARDS FOR UNSEWERED LAKES

Residential Lot Area (square feet)

Lake Class

Lakeshore

Non-Lakeshore

Single

Duplex

Triplex

Quad

Single

Duplex

Triplex

Quad

Natural Environment

80,000

120,000

160,000

200,000

80,000

160,000

240,000

320,00 0

Recreational Development

40,000

80,000

120,000

160,000

40,000

80,000

120,000

160,000

General Development

20,000

40,000

60,000

80,000

40,000

80,000

120,000

160,000

Residential Lot Width

Natural Environment

200

300

400

500

200

400

600

800

Recreational Development

150

225

300

375

150

265

375

490

General Development

100

180

260

340

150

265

375

490

Setbacks (feet)

Lake Class

LAKESHORE LOTS (distances in feet)

Structure Setback from OHW

Shore Impact Zone from OHW

On-site Sewage Setback from OHW

Natural Environment

150

75

150

Recreational Development

100

50

75

General Development

75

37.5

50

TABLE 3-26: SHORELAND LOT STANDARDS FOR RIVERS

River Class

Residential Lot Width (feet)

Structure Setback

Shore Impact Zone

Sewage Setback

S250ingle

Duplex

Triplex

Quad

TABLE 3-26: SHORELAND LOT STANDARDS FOR RIVERS

River Class

Residential Lot Width (feet)

Structure Setback

Shore Impact Zone

Sewage Setback

S250ingle

Duplex

Triplex

Quad

Remote

300

450

600

750

200

100

150

Forested

200

300

400

500

150

75

100

Transition

250

375

500

625

150

75

100

Agricultur al

150

225

300

375

50/100*

25/50*

75

Urban & Tributary

75/100*

115/150*

150/200*

190/250*

50/100*

25/50*

75

* sewered/unsewered

(c) Non-residential district lot standards.

1. Minimum lot standards for non-residential zoned properties shall be as dictated by the requirements for the underlying zoning district classification.

2. All structures and septic systems within non-residential districts shall comply with the structural setback standards for such features as listed in Tables 3-24, 3-25 and 3-26.

(d) Bluff impact zones. Structures or facilities, except stairways and landings, must not be placed within bluff impact zones.

(e) Height of structures.

1. No structures, except for churches and non-residential agricultural structures, shall exceed 25 feet in height.

2. Detached accessory structures shall not exceed 15 feet in height.

(f) Uses without water-oriented needs. Uses without water-oriented needs are encouraged to locate on lots or parcels without public water frontage, or, if located on lots or parcels with public water frontage, must either be setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(6) Zoning and water supply/sanitary provisions.

(a) Design criteria for structures in the Shoreland District.

1. High water elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

a. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

b. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

c. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris, or incorporation of flood openings.

2. Water-oriented accessory structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback of this chapter if this water-oriented accessory structure complies with the following provisions:

a. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;

b. The setback of the structure or facility from the ordinary high water level must be at least ten feet;

c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

d. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

e. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

f. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

3. Stairways, lifts, and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

a. Stairways and lifts must not exceed four feet in width;

b. Landings for stairways and lifts must not exceed 32 square feet in area;

c. Canopies or roofs are not allowed on stairways, lifts, or landings;

d. Stairways, lifts, and landings shall be constructed above the ground on posts or pilings, and be designed and built in a manner that ensures control of soil erosion in conformance with the requirements of § 153.028(N);

e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

f. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of divisions a. to e. are complied with in addition to the requirements of Minnesota Regulations, Chapter 1341.

4. Significant historic sites. No structure may be placed on a significant historic site in a manner that is inconsistent with State Historic Preservation Office regulations.

5. Steep slopes. The Community Development Department must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(b) Shoreland alterations. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

1. Vegetation alterations.

a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas are exempt from the vegetation alteration standards that follow.

b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in § 153.046(E)(6)(e)2. and § 153.046(E)(6)(e)3., respectfully, is allowed subject to the following standards:

(i) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

(ii) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is

allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

A. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

B. Along rivers, existing shading of water surfaces is preserved; and

C. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

2. Topographic alterations/grading and filling.

a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

b. Public roads and parking areas are regulated by § 153.046(E)(6)(c).

c. Notwithstanding divisions 2.a. and 2.b. above, a grading and filling permit will be required for:

(i) The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones; and

(ii) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

d. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

(i) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

A. Sediment and pollutant trapping and retention;

B. Storage of surface runoff to prevent or reduce flood damage;

C. Fish and wildlife habitat;

D. Recreational use;

E. Shoreline or bank stabilization; and

F. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

(ii) This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised;

(iii) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

(iv) Mulches or similar materials must be used for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

(v) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

(vi) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

(vii) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(viii) Plans to place fill or excavated material on steep slopes must be reviewed by a qualified engineer for continued slope stability and must not create finished slopes of 30% or greater;

(ix) Fill or excavated material must not be placed in bluff impact zones;

(x) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of the Department of Natural Resources under M.S. Chapter 103G, as it may be amended from time to time;

(xi) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

(xii) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the

finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

(c) Placement and design of roads, driveways, and parking areas.

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified engineer that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of § 153.046(E)(6)(b)2. must be met.

(d) Stormwater management. The following general and specific standards shall apply:

1. General standards.

a. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

c. Stormwater shall not be directed to wetlands without sufficient pre-treatment as approved by the city.

d. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes,

waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. Specific standards.

a. Impervious surface coverage of lots must not exceed 25% of the lot area.

b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified Engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(e) Special provisions for commercial, industrial, public/semipublic, agricultural, forestry and extractive uses and mining of metallic minerals and peat.

1. Standards for commercial, industrial, public, and semipublic uses.

a. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

(i) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

(ii) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(iii) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

A. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;

B. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to

convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

C. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

b. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture use standards.

a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

b. Animal feedlots are prohibited.

3. Forest management standards. The harvesting of timber and associated reforestation or conversion of forested use to a non-forested use must be conducted consistent with the following standards:

a. Timber harvesting and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-point Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

b. Forest land conversion to another use shall require issuance of a conditional use permit subject to § 153.028(D) and adherence to the following standards:

(i) Shore and bluff impact zones must not be intensively cleared of vegetation; and

(ii) An erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.

(iii) Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

4. Extractive use standards.

a. Site development and restoration plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

b. Setbacks for processing machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

5. Mining of metallic minerals and peat. Mining of metallic minerals and peat, as defined in M.S. §§ 93.44 to 93.51, as they may be amended from time to time, shall be a permitted use provided the provisions of M.S. §§ 93.44 to 93.51, are satisfied.

(f) Water supply and sewage treatment.

1. Water supply. Water shall be supplied through the City of Monticello municipal water system.

2. Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

a. Publicly-owned sewer systems shall be used for any new development.

b. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with the provisions division (P)(7) below.

(7) Nonconformities. All legally established nonconformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and the provisions of §§ 153.105 through 153.110 for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

(a) Construction on nonconforming lots of record.

1. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of § 153.046(P)(5)(b) may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.

2. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 153.046(P)(5)(b), the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of § 153.046(P)(5)(b) as much as possible.

(b) Additions/expansions to nonconforming structures.

1. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of § 153.046(P). Any deviation from these requirements must be authorized by a variance pursuant to § 153.046(E)(3)(c).

2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

a. The structure existed on the date the structure setbacks were established;

b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

c. The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

d. The deck is constructed primarily of wood, and is not roofed or screened.

(8) Special provisions for subdivision and platting in shoreland districts.

(a) Land suitability. Each lot created through subdivision, including planned unit developments authorized under § 153.028(O), must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(b) Consistency with other controls. Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. Each lot shall meet the minimum lot size and dimensional requirements of § 153.046(E)(5), including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(c) Information requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

1. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

2. The surface water features required in M.S. § 505.02, subdivision 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

3. Adequate soils information from field investigations such as soil borings, percolation tests, or other methods to determine suitability for building and on-site sewage treatment capabilities for every lot;

4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

5. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and

6. A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(d) Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(e) Platting. All subdivisions that create five or more lots or parcels that are two and one-half acres or less in size shall be processed as a plat in accordance with M.S. Chapter 505, as it may be amended from time to time. No permit for construction of buildings shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(f) Controlled access or recreational lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in § 153.046(E)(5)(b).

(Q) FBS: Freeway Bonus Sign District.

(1) Purpose. The City of Monticello recognizes the need for special sign allowances along the I-94 corridor to allow for effective communication to interstate travelers.

(2) District application. The provisions of this division (Q) shall apply to all business and industrial lands within the jurisdiction of Monticello that are denoted on the official zoning map as being within the freeway bonus sign overlay district.

(3) Special freeway sign allowance.

(a) In the Freeway Bonus Sign District, the area of a freestanding sign may not exceed 200 square feet each side with a maximum height of 32 feet.

(b) Double frontage lots within the Freeway Bonus Sign District shall be allowed to have up to two free-standing signs subject to the following conditions:

1. At least one of the two free-standing signs shall be a monument sign which does not exceed 14 feet in height nor an overall size of 100 square feet.

2. The above size and height limitations for the second free-standing sign shall apply even if both signs are monument signs.

3. The overall sign area maximum for the property as outlined in § 153.064 shall still be met.

(4) LED illumination. In the Freeway Bonus Sign District, unshielded LED (Light Emitting Diode) illumination may be used pursuant to the regulations found in § 153.064(G)(7).

(R) DW: Drinking Water Supply Management Area. RESERVED.

(S) Special Use Overlay District.

(1) Restrictions on adult uses. With the adoption of this chapter, the City of Monticello exercises its authority under M.S. § 617.242, subd. 7, as it may be amended from time to time, and declares that these regulations supercede the provisions of M.S. § 617.242, as it may be amended from time to time. As such, adult uses as defined in this chapter shall be subject to the following general provisions:

(a) Adult use. Principal activities shall be permitted only in those areas with the BOTH required base zoning designation and the Special Use Overlay District designation.

(b) Activities classified as obscene as defined by M.S. § 617.241, as it may be amended from time to time, are not permitted and are prohibited.

(c) An adult use which does not qualify as an accessory use shall be classified as an adult use/principal.

(d) Adult use/principal activities shall be prohibited from locating in any building which is also utilized for residential purposes.

(e) Adult use/principal activities shall not be located on any parcel that abuts or shares a property line with any of the following parcels or land uses:

1. Residentially zoned property;

2. Agricultural land located in the neighboring township or in the city that is designated in the comprehensive plan for residential use;

3. A licensed day care center;

4. A public or private educational facility classified as an elementary, middle, junior high, or senior high school;

5. A public library;

6. A public park;

7. A church;

8. Amusement places such as roller rinks, dance halls, and bowling alleys;

9. Liquor sales;

(f) Adult use/principal activities shall be located at least 400 radial feet apart as measured from one another.

(g) Adult use/principal activity is a separate use and no two adult use/principal activities shall be located in the same building or upon the same property and each use shall be subject to all of the requirements of this section.

(h) Adult use/principal activities shall adhere to the following signing regulations:

1. Sign messages shall be generic in nature and shall only identify the type of business which is being conducted;

2. Sign messages shall not contain material classified as advertising;

3. Sign messages shall comply with the requirements of size and number for the district in which they are located

(i) Adult use/principal activities shall be prohibited in establishments where liquor is served.

(j) Adult use/principal activities shall be prohibited at any place or event where minors are permitted.

(2) Adult-oriented uses – accessory.

(a) Adult use/accessory activities shall be allowed only as regulated by § 153.092(D)(4).

(Ord. 799, passed 2-27-2023)

§ 153.047 PLANNED UNIT DEVELOPMENT DISTRICTS.

(A) Swan River PUD District.

(1) Purpose. The purpose of the Swan River PUD District is to provide for the development of certain properties for elementary and secondary school activities and uses. The purpose of the district shall incorporate the Public Values Statement of record, as may be amended, adopted jointly by the Planning Commission and City Council as of January 27, 2014.

(2) Permitted uses. Permitted principal uses in the Swan River PUD District shall be Elementary and Secondary School, subject to the approved Final Stage Development Plans and development agreement, as may be amended.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to elementary and secondary schools, and as identified by the approved final stage PUD.

(4) District performance standards. Performance standards for the development of any lot in the Swan River PUD District shall adhere to the approved final stage PUD plans and development agreement. Only where any proposed improvement is not addressed by the final stage PUD, the regulations of the CCD, Central Community District shall apply.

(5) Changes. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, or building size, mass or coverage, or any other change, the proposer shall apply for an amendment to PUD under the terms of the § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(B) Monticello High School PUD District.

(1) Purpose. The purpose of the Monticello High School PUD District is to provide for the development of certain real estate subject to the District for public school buildings and related land uses.

(2) Permitted uses. Permitted principal uses in the Monticello High School PUD District shall be schools, including pre-school, K-12, and related administrative uses, subject to the approved Final Stage Development Plans dated June 27, 2016, and development agreement dated July 22, 2016, as may be amended.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to primary and secondary school uses, and as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Monticello High School PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the R-1, Single-family District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to PUD under the terms of the Monticello Zoning Ordinance, §

153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(C) Mills Fleet Farm PUD District.

(1) Purpose. The purpose of the Mills Fleet Farm PUD District is to provide for the development of certain real estate subject to the District for retail commercial land uses.

(2) Permitted uses. Permitted principal uses in the Mills Fleet Farm PUD District shall be retail commercial uses as found in the B-4, Regional Business District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated July 19, 2016, the amendment to Planned Unit Development dated June 12, 2017, and development agreement dated July 25, 2016, amended October 24, 2016 and as may be amended. The introduction of any other use from any district, including Conditional Uses in the B-4 District, shall be reviewed under the requirements of §§ 153.025 through 153.028 – Planned Unit Development for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to retail uses, and as specifically identified by the approved final stage PUD plans, which shall hereby be incorporated by reference.

(4) District performance standards. Performance standards for the development of any lot in the Mills Fleet Farm PUD District shall adhere to the approved final stage PUD plans, which shall hereby be incorporated by reference and development agreement dated July 25, 2016. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the B-4, Regional Business District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(D) Red Rooster PUD District.

(1) Purpose. The purpose of the Red Rooster PUD District is to provide for the development of certain real estate subject to the District for office-commercial and industrial services land uses.

(2) Permitted uses. Permitted principal uses in the Red Rooster PUD District shall be office-commercial uses as found in the B-2, Limited Business District and industrial services uses as found in the I-1, Light Industrial District of the Monticello Zoning Ordinance, subject to the

approved Final Stage Development Plans dated May 23, 2016, and development agreement dated July 25, 2016, as may be amended.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to office-commercial uses, and as specifically identified by the approved final stage PUD plans, including limited non-commercial self-storage as an accessory use. Accessory buildings on the site may be utilized for indoor storage for enterprises which may or may not occupy principal use space on the property. No outdoor storage of materials or equipment shall be permitted.

(4) District performance standards. Performance standards for the development of any lot in the Red Rooster PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the B-2, Limited Business District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(E) Spaeth Industrial Park PUD District.

(1) Purpose. The purpose of the Spaeth Industrial Park PUD District is to provide for the development of certain real estate subject to the District for industrial land uses.

(2) Permitted uses. Permitted principal uses in the Spaeth Industrial Park PUD District shall be indoor industrial uses as found in the I-2, Heavy Industrial District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated July 24, 2017 and development agreement dated July 24, 2017, as may be amended. The introduction of any other use from any district, including Conditional Uses in the I-2 District, shall be reviewed under the requirements of § 153.028(O) – Planned Unit Developments for Development Stage PUD and Final Stage PUD. Industrial Self-Storage, as defined by the Monticello Zoning Ordinance.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to industrial uses, and as specifically identified by the approved final stage PUD plans, but shall not include outdoor storage or other activities.

(4) District performance standards. Performance standards for the development of any lot in the Spaeth Industrial Park PUD District shall

adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement or use is not addressed by the Final Stage PUD, then the regulations of the I-2, Heavy Industrial District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(6) Subdivisions within the Spaeth Industrial Park PUD District may occur following the city's Subdivision Ordinance procedures for preliminary and final plat. Subdivisions may create lot lines which result in common wall buildings, and in all cases shall adhere fully to requirements of the city's Building Code and other applicable regulations. Any such subdivision shall be accompanied by restrictive covenants or similar instruments that ensure common maintenance of all exterior site and building components of the PUD and an amendment to the development contract.

(F) Camping World PUD District.

(1) Purpose. The purpose of the Camping World PUD District is to provide for the development of certain real estate subject to the District for vehicle sales, service, and display commercial land uses.

(2) Permitted uses. Permitted principal uses in the Camping World PUD District shall be vehicle sales, display, and vehicle service and repair – minor and major, as found in the B-3 Highway Business District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated August 14, 2017, and development agreement dated August 14, 2017, as may be amended. The introduction of any other use from any district, including Conditional Uses in the B-3 District, shall be reviewed under the requirements of the Monticello Zoning Ordinance, § 153.028(O) – Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to retail uses, and as specifically identified by the approved final stage PUD plans. Accessory buildings on the site may be utilized for indoor uses for enterprises of commercial tenants which are identified as permitted principal uses in the B-3, Highway Business District.

(4) District performance standards. Performance standards for the development of any lot in the Camping World PUD District shall adhere to the approved final stage PUD plans and development agreement. In such

case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the B-3, Highway Business District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(G) Autumn Ridge PUD District.

(1) Purpose. The purpose of the Autumn Ridge PUD District is to provide for the development of certain real estate subject to the District for residential land uses.

(2) Permitted uses. Permitted principal uses in the Autumn Ridge PUD District shall be single-family residential uses as found in the “T-N”, Traditional Neighborhood Zoning District, subject to the approved Final Stage Development Plans and development agreement dated September 11, 2017, as may

be amended. The introduction of any other use from any district, including Conditional Uses in the T-N District, shall be reviewed under the requirements of the Monticello Zoning Ordinance, § 153.028(O) – Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to residential uses as allowed in the T-N District, and as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Autumn Ridge PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement or use is not addressed by the Final Stage PUD, then the regulations of the T-N, Traditional Neighborhood District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(H) Affordable Self-Storage PUD District.

(1) Purpose. The purpose of the Affordable Self-Storage PUD District is to provide for the development of certain real estate subject to the District for commercial land uses.

(2) Permitted uses. Permitted principal uses in the Affordable Self-Storage PUD District shall be self-storage uses as found in the B-3, Highway Business District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated September 11, 2017 and development agreement dated September 11, 2017, as may be amended. The introduction of any other use from any district, including Conditional Uses in the B-3 District, shall be reviewed under the requirements of the Monticello Zoning Ordinance, § 153.028(O) – Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to commercial uses, and as specifically identified by the approved final stage PUD Plans, but shall not include outdoor storage or other activities, with the following exception:

(a) Storage boxes or "pods", or similar temporary structures manufactured specifically for the purposes of portable self-storage use, may be permitted to be displayed for rental on the site, provided such structures meet the following conditions:

1 Only one such storage box shall be displayed in any individual PUD District.

2. No such storage shall be placed within 100 feet of a residential zoning district, or closer to the street right-of-way than any building, or within ten feet of any other lot line.

3. No such storage box shall be stacked to a height greater than nine feet from existing grade on which it sits.

4. Any such storage shall be placed only on a paved surface.

5 No such storage box shall be placed within any driveway, required landscaping area, parking space, or other space required by the approved PUD plan for site circulation and/or operations.

6. Any such storage shall meet all requirements for fire and other emergency vehicle access, including access to fire hydrants or other utilities.

7. Storage of such structures for delivery or use by renters shall be located off-site.

8. Delivery of such structures to the renters shall occur from the off-site storage location, and not from this District.

9. No such temporary/portable structure shall at any time be used for storage of any goods on the property in this zoning district, and shall only serve as display of such boxes for rental to users off-site.

(4) District performance standards. Performance standards for the development in the Affordable Self-Storage PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement or use is not addressed by the Final Stage PUD, then the regulations of the B-3, Highway Business District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(I) Rivertown Suites PUD District.

(1) Purpose. The purpose of the Rivertown Suites PUD District is to provide for the development of certain real estate subject to the District for multiple-family residential land uses.

(2) Permitted uses. Permitted principal uses in the Rivertown Suites PUD District shall be multiple-family residential uses as found in the R-4, Medium-High Density Residential District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated July 23, 2018 and development agreement dated September 7, 2018, as may be amended. The introduction of any other use from any district shall be reviewed under the requirements of the Monticello Zoning Ordinance, § 153.028(O) – Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to residential uses, and as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Rivertown Suites PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the R-4, Medium-High Density Residential District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an

amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(J) Groveland 5th Addition – Monticello RV PUD.

(1) Purpose. The purpose of the Groveland 5th Addition- Monticello RV PUD District is to provide for the development of certain real estate subject to the District for Vehicle Sales and Rental uses.

(2) Permitted uses. Permitted principal uses in the Groveland 5th Addition - Monticello RV PUD District shall be vehicle sales and rental uses as found in the B-3, Highway Business District of the Monticello Zoning Ordinance, subject to the approved Final Stage PUD Plans dated March 25, 2019, and development agreement dated March 25, 2019, as may be amended. The introduction of any other use from any district shall be reviewed under the requirements of the Monticello Zoning Ordinance, § 153.028(O) - Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to vehicle sales and rental uses, and as specifically identified by the approved final stage PUD plans. This shall include the addition of an accessory sanitary sewage dump station facility for recreational vehicles and LP bulk fuel tank as approved by the City Council on July 22, 2019.

(4) District performance standards. Performance standards for the development of any lot in the Groveland 5th Addition - Monticello RV PUD District shall adhere to the approved Final Stage PUD Plans and development agreement. In such case where any proposed improvement is not addressed by the Final Stage PUD Plans, then the regulations of the B-3, Highway Business District, shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(K) Deephaven PUD District.

(1) Purpose. The purpose of the Deephaven PUD District is to provide for the development of certain real estate subject to the District for multiple-family residential land uses.

(2) Permitted uses. Permitted principal uses in the Deephaven PUD District shall be multiple-family residential uses as found in the R-4, Medium-High Density Residential District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated July 21, 2020, and development agreement dated January 13, 2020, as may be amended. The introduction of any other use from any district shall be reviewed under the requirements of the Monticello Zoning Ordinance, § 153.028(O) – Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to residential uses, and as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Deephaven PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the R-4, Medium-High Density Residential District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(L) UMC PUD District.

(1) Purpose. The purpose of the UMC PUD District is to provide for the development of certain real estate subject to the District for industrial land uses.

(2) Permitted uses. Permitted principal uses in the UMC PUD District shall be indoor industrial uses as found in the IBC, Industrial and Business Campus District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated September 14, 2020, and development agreement dated February 24, 2020, as may be amended.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to industrial uses, and as specifically identified by the approved final stage PUD plans, but shall not include outdoor storage or other activities.

(4) District performance standards. Performance standards for the development of any lot in the UMC PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case

where any proposed improvement is not addressed by the final stage PUD, then the regulations of the IBC, Industrial and Business Campus District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(M) Nuss Truck and Equipment Industrial PUD.

(1) Purpose. The purpose of the Nuss Truck and Equipment PUD District is to provide for the development of certain real estate subject to the District for industrial land uses.

(2) Permitted uses. Permitted principal uses in the Nuss Truck and Equipment PUD District shall be machinery/truck repair and sales as found in § 153.091(F)(11) subject to the approved final stage development plans dated April 19, 2021, the amended landscaping plan dated May 10, 2021, and development agreement dated January 25, 2021, as may be amended.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to industrial uses, and as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Nuss Trucking Industrial PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the I-1, Industrial District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(N) Edmonson Ridge PUD District.

(1) Purpose. The purpose of the Edmonson Ridge PUD District is to provide for the development of certain real estate subject to the District for residential land uses.

(2) Permitted uses. Permitted principal uses in the Edmonson Ridge PUD District shall be single-family residential uses as found in the TN, Traditional Neighborhood District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated December 14, 2020, and development agreement dated December 14, 2020, as may be amended.

(3) Accessory uses. Accessory uses shall be those listed in the TN, Traditional Neighborhood District, and as specifically identified by the approved final stage PUD plans, and as specially regulated by restrictive covenant as recorded against the lots zoned Edmonson Ridge PUD District.

(4) District performance standards. Performance standards for the development of any lot in the Edmonson Ridge PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the TN, Traditional Neighborhood district shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require the substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(O) StorageLink Monticello PUD.

(1) Purpose. The purpose of the StorageLink Monticello PUD District is to provide for the development of certain real estate subject to the B-3 (Highway Business) District for commercial land uses.

(2) Permitted uses. Permitted principal uses in the StorageLink Monticello PUD District shall be commercial self-storage as found in § 153.091(F)(11) of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated April 26, 2021, and development agreement dated April 26, 2021, as may be amended.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to commercial uses, and as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the StorageLink Monticello PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the B-3 (Highway Business) shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of the Monticello Zoning Ordinance, § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(P) Stony Brook Village PUD District.

(1) Purpose. The purpose of the Stony Brook PUD District is to provide for the development of certain real estate subject to the district for two-family residential land uses.

(2) Permitted uses. Permitted principal uses in the Stony Brook PUD District shall be two-family residential uses as found in the R-2 Single and Two-Family Residential District of the Monticello Zoning Ordinance, subject to the approved final stage development plans dated August 23, 2021, and development agreement dated August 23, 2021, as may be amended. The introduction of any other use from any district shall be reviewed under the requirements of § 153.028(O) - Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to residential uses, and as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Stony Brook PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the R-2, Single and Two-Family Residential District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, exterior building materials or colors, lot coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(Q) Monticello Lakes PUD District.

(1) Purpose. The purpose of the Monticello Lakes PUD District is to provide for the development of certain real estate subject to the District for multiple-family residential land uses.

(2) Permitted uses. Permitted principal uses in the Monticello Lakes PUD District shall be a maximum of 200 units of multiple-family residential uses as found in the R-4 Medium and High Density Residential District of the Monticello Zoning Ordinance, subject to the approved final stage development plans dated December 6, 2021, and development agreement dated December 13, 2021, as may be amended. The introduction of any other use or change in density shall be reviewed under the requirements of § 153.028(O) - Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to residential uses as listed in the R-4 District, and as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Monticello Lakes PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the R-4, Medium and High Density Multiple-Family Residential District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, exterior building materials or colors, lot coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(R) Block 52 PUD District.

(1) Purpose. The purpose of the PUD, Block 52 First Addition Planned Unit Development District is to provide for the development of certain real estate subject to the District for mixed land uses consistent with the direction of the Downtown Monticello Small Area Plan chapter of the Comprehensive Plan and the specific uses and improvements identified in the Final PUD Plans dated July 11, 2022 as may be property amended.

(2) Permitted uses. Permitted principal commercial uses in the proposed mixed-use building shall be limited to permitted and conditional uses allowed within the CCD, Central Community District. Additionally ground floor commercial uses along Broadway shall accommodate office uses on the street level, an element of flexibility from the Downtown Small Area Plan. Residential uses shall be permitted uses on the upper floors (non-street-level), per Final PUD plans for the Block 52 PUD District.

(3) The introduction of any other use from any district shall be reviewed under the requirements of the PUD requirements and process.

(4) Accessory uses. Accessory uses shall be those specifically identified by the approved final stage plans for each approved project.

(5) District performance standards. Performance standards for the development of any lot in the Block 52 PUD District shall adhere to the approved final stage plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD plans, such improvement shall only be considered with an amendment to the final stage plans per the process specified in the ordinance.

(6) Amendments. Where changes to any proposed project in the PCD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the approved final stage PUD plan under the terms of the Monticello Zoning Ordinance. The city may require that changes in overall use, density, site plan, development layout, building size, mass, or coverage, or any other change of the PUD property be processed as a new project, including a zoning district amendment.

(7) Variations from plans. The Community Development Department shall determine whether any proposed variation from the approved Final PUD plans shall constitute a PUD Adjustment or PUD Amendment. The Community Development Department shall make this determination narrowly, favoring a full Amendment process in the case of uncertainty.

(S) Twin Pines PUD District.

(1) Purpose. The purpose of the Twin Pines PUD District is to provide for the development of certain real estate subject to the District for multiple-family residential land uses.

(2) Permitted uses. Permitted principal uses in the Twin Pines PUD District shall be multiple-family residential uses as found in the R-4, Medium-High Density Residential District of the Monticello Zoning Ordinance, subject to the approved final stage development plans dated October 7, 2022 and development agreement dated February 28, 2022, as may be amended. The introduction of any other use from any district shall be reviewed under the requirements of § 153.028(O) - Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to residential uses as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Twin Pines PUD District shall adhere to the approved final stage PUD plans and development agreement. In such case where any proposed improvement is not addressed by the final stage PUD,

then the regulations of the R-4, Medium-High Density Residential District shall apply.

(5) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(T) Haven Ridge 2nd Addition PUD District.

(1) Purpose. The purpose of the Haven Ridge 2nd Addition PUD District is to provide for the development of certain real estate subject to the District for single-family residential land uses.

(2) Permitted uses. Permitted principal uses in the Haven Ridge 2nd Addition PUD District shall be single-family residential uses as found in the R-1, Single-Family Residential District of the Monticello Zoning Ordinance, subject to the approved Final Stage Development Plans dated June 7, 2022, and development agreement dated July 25, 2022, as may be amended. The introduction of any other use from any district shall be reviewed under the requirements of § 153.028(O) - Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to single-family residential uses, as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Haven Ridge 2nd Addition PUD District shall adhere to the approved final stage PUD plans and development agreement. Specific to the single-family dwellings in the District, the following requirements shall apply:

(a) Adherence to the City's T-N, Traditional Neighborhood zoning lot standards and setbacks, in the absence of a PUD design element addressing the other items in this list.

(b) Those standards include the following:

1. Twenty-five foot front setbacks, with six-feet side yards and 20-feet rear yards.

2. Building sizes of 1,050 finished, and 2,000 square feet finishable area.

3. Garage square footage of at least 480 square feet.

4. Roof pitches of at least five to 12.

5. Brick/stone on front facade equal to at least 15% of all front-facing surfaces.

6. Livable portions of the home exposed to the front street will achieve between 40 to 50% of the width of the structure, with designs to be approved through the PUD process.

7. Usable front porches or similar features.

8. Front entry doors no greater than six feet farther back from the garage doors.

9. Additional large tree planting (including trees of at least three inches caliper planting size) in the front yards of the proposed lots to make a more immediate impact on the streetscape.

10. Driveway standards per the R-1 District.

(5) In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the R-1, Single-Family Residential District shall apply.

(6) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(U) Country Club Manor Second Addition PUD District.

(1) Purpose. The purpose of the Country Club Manor Second Addition PUD District is to provide for the development of certain real estate subject to the District for mixed residential land uses.

(2) Permitted uses. Permitted principal uses in the Country Club Manor Second Addition PUD District shall be multiple-family residential uses on Lot 1, Block 5, and two-family residential uses in the remainder of Country Club Manor Second Addition, subject to the approved final stage development plans dated July 7, 2022, and development agreement dated September 26, 2022, as may be amended. The introduction of any other use from any district shall be reviewed under the requirements of § 153.028(O) - Planned Unit Developments for Development Stage PUD and Final Stage PUD.

(3) Accessory uses. Accessory uses shall be those commonly accessory and incidental to the various residential uses, as specifically identified by the approved final stage PUD plans.

(4) District performance standards. Performance standards for the development of any lot in the Headwaters West PUD District shall adhere to the approved final stage PUD plans and development agreement.

(5) In such case where any proposed improvement is not addressed by the final stage PUD, then the regulations of the R-4 Residential District shall apply in Country Club Manor Second Addition, Lot 1, Block 5 and the R-3 Residential District shall apply to the remainder of County Club Manor Second Addition.

(6) Amendments. Where changes to the PUD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the PUD under the terms of § 153.028(O)(10). The city may require that substantial changes in overall use of the PUD property be processed as a new project, including a zoning district amendment.

(Ord. 763, passed 9-13-2021; Ord. 765, passed 10-25-2021; Ord. 767, passed 12-13-2021; Ord. 779, passed 7-11-2022; Ord. 784, passed 8-22-2022; Ord. 799, passed 2-27-2023)

§ 153.048 POINTES AT CEDAR DISTRICT.

(A) Purpose. The purpose of the PCD, Pointes at Cedar District is to provide for the development of certain real estate subject to the district for mixed land uses consistent with the direction of the Pointes at Cedar Small Area Plan chapter of the Comprehensive Plan and consistent with The Pointes at Cedar Ordinance No. 776, adopted herein by reference.

(B) Permitted uses. Permitted principal uses in the Pointes at Cedar District shall be those identified in the Pointes at Cedar Zoning District and on the PCD Zoning Map. The introduction of any other use from any district shall be reviewed under the requirements of the PCD ordinance requirements and process.

(C) Accessory uses. Accessory uses shall be those commonly accessory and incidental to the principal uses, as specifically identified by the approved development stage plans for each approved project.

(D) District performance standards. Performance standards for the development of any lot in the Pointes at Cedar District shall adhere to the approved development stage plans and development agreement. In such case where any proposed improvement is not addressed by the development stage PCD plans, such improvement shall only be considered with an amendment to the development stage plans per the process specified in the ordinance.

(E) Amendments. Where changes to any proposed project in the PCD are proposed in the manner of use, density, site plan, development layout, building size, mass, or coverage, or any other change, the proposer shall apply for an amendment to the approved development stage PCD plan under the terms of the PCD ordinance text and requirements. The city may require that substantial changes in overall use of the PCD property be processed as a new project, including a zoning district amendment.

(Ord. 776, passed 4-25-2022; Ord. 799, passed 2-27-2023)

FINISHING STANDARDS

§ 153.060 LANDSCAPING AND SCREENING.

(A) Section organization. The Monticello landscaping and screening standards are organized into the following main divisions:

(1) Division (B), Purpose and Intent. Sets out the purpose and intent for the standards;

(2) Division (C), General Requirements for Landscaping. Includes the applicability provisions, requirements for landscaping plans, and standards for new plantings;

(3) Division (D), Landscaping Plan Requirements. Outlines the specific information that must be supplied to the city anytime a landscape plan is required by this chapter;

(4) Division (E), Standards for Site Landscaping. Introduces standards for foundation plantings around some buildings;

(5) Division (F), Alternative Landscaping Plan. Includes the procedures and standards for review of alternative landscaping plans;

(6) Division (G), Standards for Vehicular Use Area Landscaping. Includes the standards for landscaping around the perimeter and within vehicular use areas;

(7) Division (H), Standards for Perimeter Buffers. Includes the landscaping buffer standards applied to the edges of some base zoning districts;

(8) Division (I), Standards for Required Screening. Includes the screening requirements for site features like refuse, loading, and service areas ;

(9) Division (J), Zoning Specific Landscaping Standards. Includes specific landscaping standards specific to zoning district.

(10) Division (K), Landscaping Installation and Maintenance Standards. Includes the other standards for landscaping installation, timing, maintenance, monitoring for compliance, and incentives.

(B) Purpose and intent. It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the planting and maintenance of trees, shrubs, and other plants within the city. The intent of this section is to promote this purpose by:

(1) Ensuring and encouraging the planting, maintenance, restoration and survival of trees, shrubs, and groundcover;

(2) Ensuring the protection of community residents and visitors from personal injury and property damage, and the protection of the city from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs, or other plants;

(3) Mitigating against erosion and sedimentation;

(4) Reducing stormwater runoff and the costs associated therewith;

(5) Preserving and protecting the water table and surface waters;

(6) Reducing audible noise from automobiles and land uses;

(7) Restoring soils and land denuded as a result of construction or grading;

(8) Increasing the tree canopy to provide shade and moderate the effect of urban heat islands;

(9) Limiting glare created by exterior lighting;

(10) Reducing visual pollution from the urban environment and increasing privacy between incompatible uses;

(11) Protecting and enhancing property values and aesthetic qualities;

(12) Helping to differentiate streets and other areas of the public realm from private lands;

(13) Providing additional improvements to air quality through the carbon dioxide uptake process provided by trees and landscaping; and

(14) Providing visual screening, where appropriate.

(C) General requirements for landscaping.

(1) Applicability of landscaping standards.

(a) General. Except as exempted by § 153.060(C)(1)(b) below, the standards in § 153.060 shall apply to all development in the city.

(b) Exemptions. Development in the CCD shall be exempt from the perimeter vehicular use area landscaping standards in § 153.060(F)(3).

(c) Landscape plan. To ensure compliance with the standards of this section, a landscape plan demonstrating how landscaping will be planted on a development site shall be included as a part of any application when required by the Community Development Department.

(2) Planting standards. Plantings provided in accordance with this section shall comply with the following standards:

(a) Deciduous canopy or shade trees shall be a minimum of two caliper inches in size at the time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2004, as amended.

(b) Evergreen canopy trees shall be a minimum of six feet in height above ground level at the time of planting.

(c) Understory or ornamental trees shall have a caliper of one-and-one half inches at time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2004, as amended.

(d) Deciduous or evergreen shrubs shall be upright in nature and be a minimum of 24 inches in height at the time of planting.

(e) In cases where an aggregate caliper inch (ACI) requirement is utilized to derive a required amount of vegetation, and the ACI figure includes a fraction, an applicant may:

1. Utilize a tree or trees with a caliper inch measurement exceeding the minimum size at time of planting standard of § 153.060(C) in order to meet the required ACI; or

2. Round the ACI figure upwards until the figure corresponds with a whole number of trees meeting the minimum size at time of planting standard. When trees exceeding the minimum size at time of planting standard are proposed, the minimum calipers of such trees shall be clearly noted on the Landscaping Plan.

(f) In cases where application of landscaping requirements result in a fraction in the number of shrubs to be provided, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

(g) All landscape plant materials shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1, as amended). Plant

material shall be of standard quality or better, true to name and type of species or variety.

(h) The use of native, drought tolerant vegetation is encouraged to reduce dependency upon irrigation.

(i) To curtail the spread of disease or insect infestation in a plant species, new tree plantings shall comply with the following standards:

1. When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions.

2. When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions.

3. When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions.

4. Nothing in this division shall be construed so as to prevent the utilization of a larger number of different species than specified above.

(j) Required species.

1. All trees used in site developments shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.

2. All deciduous trees proposed to satisfy the minimum requirements of this policy shall be long-lived hardwood species.

(3) Existing vegetation.

(a) It is the policy of the City of Monticello to preserve the natural forest and woodland areas throughout the city; and with respect to specific site development, to retain, as far as practicable, substantial tree stands which should be incorporated into the site.

(b) Existing healthy, well-formed canopy and understory trees as well as healthy shrubs shall be credited toward the requirements of this section, provided the vegetation meets the minimum size standards of this chapter, is protected before and during development of the site in accordance with § 153.061(B), Tree Protection During Construction, and is maintained thereafter in a healthy growing condition.

(4) Stabilization. All required landscape planting areas and required yards shall be stabilized and maintained with lawn, ground covers, mulches, or other approved materials to prevent soil erosion and allow rainwater infiltration.

(5) Berms.

(a) The slope of all berms shall not exceed a two-to-one ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of four feet above the toe of the berm.

(b) All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.

(c) Berms proposed to be placed along street right-of-way shall be designed and constructed to provide adequate sight distances at intersections and shall not impair safe operation of vehicles.

(d) Berms shall in no case damage the roots or trunks of existing healthy vegetation designated to be preserved.

(6) Easements. Nothing except groundcover shall be planted or installed within any underground or overhead utility, drainage, gas easement, or within three feet of a fire protection system without the consent of the utility provider, easement holder, or the city, as appropriate.

(7) Ground cover when no landscaping or site plan is required. All areas not otherwise improved in accordance with approved site or landscaping plans shall be seeded or sodded with lawn cover. Exceptions to this criterion may be approved by the Community Development Department as follows:

(a) For commercial, industrial and institutional uses, native plantings per an alternative landscaping plan approved by the Community Development Department.

(b) Undisturbed areas containing existing viable natural vegetation which can be maintained free of foreign and noxious plant materials.

(c) Areas designated as open space or future expansion areas properly planted and maintained with prairie grass.

(d) Use of mulch materials such as bark, rock mulch over four mil poly, and wood chips in support of shrubs and foundation plantings.

(D) Landscaping plan requirements.

(1) Detailed landscape plans shall be required as specified in this chapter and in all cases where site plan approval is specified by either this chapter or the subdivision ordinance.

(a) The landscape plan should illustrate planned development on the site; and

(b) The landscape plan shall be produced on a separate sheet or sheets from other required plans such as grading, drainage, and utility plans.

(2) Detailed landscape plans shall include the following information:

(a) In general.

1. Name and address of developer/owner.

2. Name and address of architect/designer.

3. Date of plan preparation.

4. Dates and description of all revisions.

5. Name of project or development.

6. Scale of plan (engineering scale only, at one inch equals 50 feet or less).

7. North point indication.

(b) Site analysis.

1. Boundary lines of property with dimensions based upon certified survey.

2. Name and alignment of proposed and existing adjacent on-site streets.

3. Location of existing and proposed utility rights-of-way, easements, and lines (water, gas, electric).

4. Location of existing and proposed building.

5. Topographic contours of the minimum interval of two feet, extending at least 100 feet beyond the site boundaries.

6. Location of existing and proposed parking facilities, including curbing detail and traffic island delineators.

7. Location of existing and proposed water bodies.

8. Location of existing and proposed sidewalks, trail corridors, and fire lanes.

9. Other existing or proposed conditions which would be expected to affect landscaping.

10. Percentage of gross site area not covered by structures and pavement and percentage of gross site area covered by pervious and impervious surfaces.

(c) Landscape data.

1. Planting schedule (table) containing symbols, quantities, common names, botanical names, sizes of plant material, root specification (b.r., B & B, potted, etc.) and special planting instructions.

2. Existing trees and shrubbery, locations, common names, and approximate size.

3. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).

4. Typical sections in details of fences, tie walls, planter boxes, tot lots, picnic areas, berms, and the like.

5. Typical sections of landscape islands and planter beds with identification of materials used.

6. Details of planting beds and foundation plantings.

7. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.

8. Delineation of both sodded and seeded areas with respective areas in square feet.

9. Coverage plan for underground irrigation system, if any.

10. Exterior lighting plan (as applicable).

(E) Standards for site landscaping.

(1) Purpose and intent. Site landscaping material is intended to soften the visual impact of building foundations and provide for the even dispersal of trees across a development site.

(2) No exceptions. The site landscaping provisions of § 153.060(H) shall be required for all development.

(3) Distinguished from other required landscaping. Site landscaping, for the purpose of this section, is exclusive of required perimeter buffer and screening landscaping. Plantings required to meet vehicular use area and perimeter vehicular use area landscaping standards can be counted towards meeting site landscaping requirements.

(4) Site landscaping standards. Site landscaping shall be supplied in the amounts identified in Table 4-4: Required Site Landscaping Plantings. Site landscaping shall meet the minimum size standards for new planting specified in § 153.060(C)(2), Planting Standards.

TABLE 4-4: REQUIRED SITE LANDSCAPING PLANTINGS

Use Type [1]

Required Plantings Per Site [2][3][4]

TABLE 4-4: REQUIRED SITE LANDSCAPING PLANTINGS

Use Type [1]

Required Plantings Per Site [2][3][4]

General Standards

Single-family detached and Multi-family dwellings with less than five (5) units [5] [6]

4.0 ACI of canopy trees OR

[7]

Multi-Family Dwellings with five (5) or more units

16.0 ACI of canopy trees (including at least 3 evergreen trees) per acre + at least 2 shrubs per each 10 feet of building perimeter, or as may be otherwise specified in the zoning district

Civic & Institutional Uses

14.0 ACI of canopy trees (including at least 2 evergreen trees) per acre + at least 1 shrubs per each 10 feet of building perimeter

Office & Commercial Uses

10.0 ACI of canopy trees (including at least 1 evergreen tree) per acre + at least 2 shrubs per each 10 feet of building perimeter

Industrial Uses

4.0 ACI of canopy trees (including at least 1 evergreen tree) per acre + at least 1 shrub per every 10 feet of a building wall facing a public right-of-way

District Specific Standards

TN District lot standards

(all plantings must be in the front or side yards, and all shrub and flower plantings must be in the front yard)

See § 153.060(J)(2)

CCD lot standards

See § 153.060(J)(3)

IBC District lot standards

See § 153.060(J)(4)

NOTE: ACI = Aggregate Caliper Inches

[1]: See Table 5-1, Uses By District.

[2]: At least ½ of the required shrubs shall be of an evergreen variety.

[3]: Each evergreen tree meeting the minimum size standards of this section shall count as two caliper inches towards the total number of required canopy tree caliper inches.

[4]: Credits towards required landscaping are available for the retention of non-specimen trees per the provisions of § 153.61(D), Tree Preservation Incentives.

[5]: Required landscaping trees shall be planted within the boulevard.

[6]: Lots in the T-N District shall not adhere to these standards, but instead to the specific standards listed in § 153.61(J)(2).

[7]: Required Plantings for corner lots shall be double the listed requirements (8.0 ACI of canopy trees)

(5) Shrub placement. Required shrubs shall be placed around the building perimeter, a minimum of three feet from the building, with emphasis placed on screening building foundations visible from the public right-of-way. Required shrubs may be planted up to ten feet from the building, or up to 15 feet from the building if there is a sidewalk located between the planting area and the building wall.

(6) Tree placement. Trees serving as site landscaping shall be dispersed across a site in accordance with good planting practice and the following priority listing:

(a) In yards between a building façade and a street right-of-way where no vehicular use area landscaping is required;

(b) Between a building and an adjacent lot with an existing use that provides more than 50% of the vegetative material associated with a required perimeter buffer;

(c) Between a building façade and an abutting lot with the same or a more intense zoning district classification (where no perimeter buffering is required);

(d) Within open-space set-aside areas with no existing or reforested trees;

(e) Adjacent to on-site areas of pedestrian or vehicular circulation where no other vegetative material is required (e.g., drive-thrus or stacking lanes); or

(f) Other areas near accessory structures or accessory uses.

(F) Alternative landscaping plan.

(1) Purpose. In cases where development conditions require a deviation from the landscaping standards in this section or the tree protection standards in § 153.061, Tree Protection, an alternative landscaping plan shall be required. An alternative landscaping plan may also be provided for native landscaping for commercial, industrial, civic and institutional use sites where the use of native plantings represents consistency with the goals of the comprehensive plan. An alternative landscaping plan shall indicate how compliance with the standards in this chapter is impossible or impractical, and shall illustrate how compliance can be achieved to the maximum extent practicable. Nothing in § 153.060(F) shall prohibit a development configuration that meets or exceeds the landscaping and tree protection standards in this chapter.

(2) Justification. Alternative plans, materials, or methods may be justified due to:

(a) Natural conditions, such as streams, natural rock formations, or topography;

(b) The likelihood that landscaping material would be ineffective at maturity due to topography, placement, or other existing site conditions;

(c) Lot size or configuration;

(d) The presence of utility or other easements;

(e) The potential for interference with public safety; and

(f) Other situations where strict adherence to the landscaping or tree protection standards in this Chapter are determined to be impractical by the Community Development Department.

(3) Allowable deviations. The Community Development Department may approve an alternative landscape plan if it meets the purpose and intent of § 153.060, Landscaping and Screening, or § 153.061, Tree Protection, as appropriate. Allowable deviations from the standards of this section include, but are not limited to the following:

(a) Reduced planting rates due to public facilities. An adjustment to planting locations or reduction of up to 20% in the type or total number of required caliper inches may be allowed when underground connections to

public facilities, public utilities, or public easements or right-of-way cause difficulty in meeting the required standards.

(b) Reduction in standards due to nature of parcel. A reduction in the count, spacing, or species variety standards by up to 20% may be allowed where the reduction is desirable in terms of protection of existing natural resources, better consistency with the goals of the comprehensive plan, or a site design that exceeds the quality of what would otherwise result under a strict application of the standards in this chapter, in the opinion of the Community Development Department.

(c) Reduction in standards in recognition of native plantings and/or restoration plan. A reduction of up to 10% in the type or total number of required caliper inches may be allowed where the reduction is desirable as an incentive to encourage the use of native plantings and/or the restoration of native plantings on lands dedicated for open space.

(d) Planting on adjacent or alternative sites. In cases where required plantings cannot be easily sited on the subject parcel, alternative locations on adjacent or nearby parcels may be proposed.

(4) Alternative landscape plan informational requirements. Alternative landscape plans shall provide the same information required by a general landscape plan as outlined in § 153.060(D).

(G) Standards for vehicular use area landscaping. Except where exempted by § 153.060(G)(1) below, all vehicular use areas shall include landscaping both within the interior of the vehicular use area and around its perimeter, as a means of mitigating the parking area’s microclimate and visual impacts. Vehicular use area landscaping, including perimeter vehicular use areas, may be counted toward overall site landscaping requirements.

(1) Exemptions. The following uses shall be exempt from the requirements to provide vehicular use area landscaping:

(a) Single-family detached residential development;

(b) Two- to four-family dwellings;

(c) Off-street surface vehicular use areas with four or fewer spaces;

(d) Parking structures; and

(e) Vehicle display areas for commercial vehicle sales and rental uses.

(2) Interior vehicular use area landscaping standards.

(a) Where islands are proposed for drainage and stormwater management, such islands shall be landscaped in accordance with this section.

(b) All vehicular use areas shall provide and maintain landscaped planting areas within the interior of the vehicular use area in accordance with this section.

(c) Configuration. Interior planting areas shall be designed in accordance with the following standards:

1. Islan ds shall be locat ed at the end of parki ng bays and have a mini mum size of 180 squa re feet when adja cent to singl e load ed parki ng spac es, and a mini mum size of 360 square feet when adjacent to double loaded parking spaces (see Figure 4-1: Interior Parking Islands) .

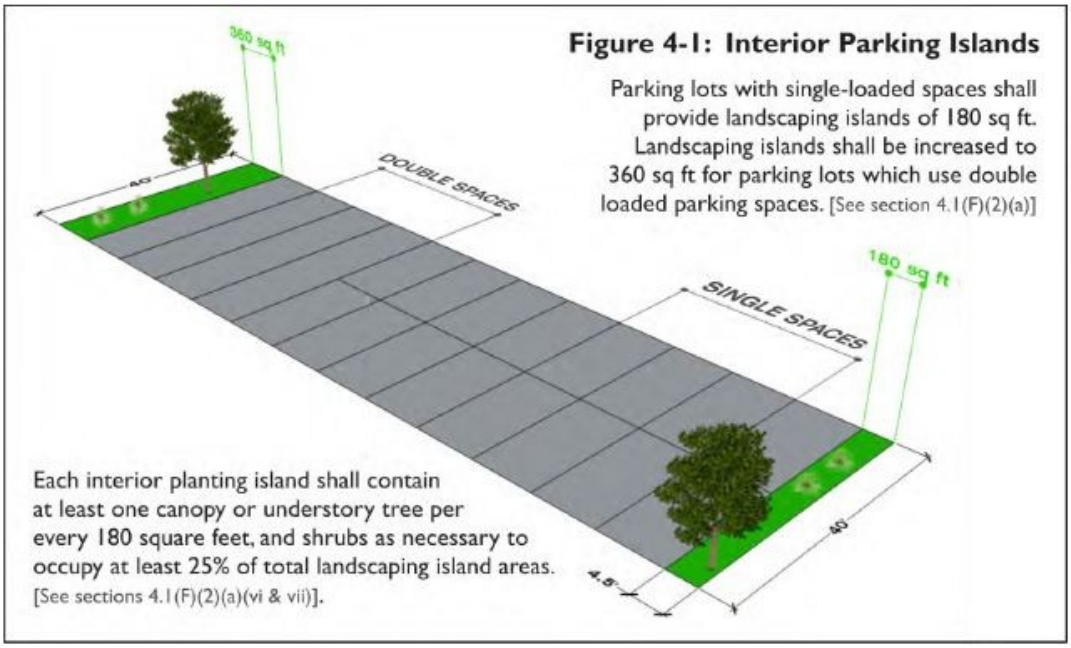
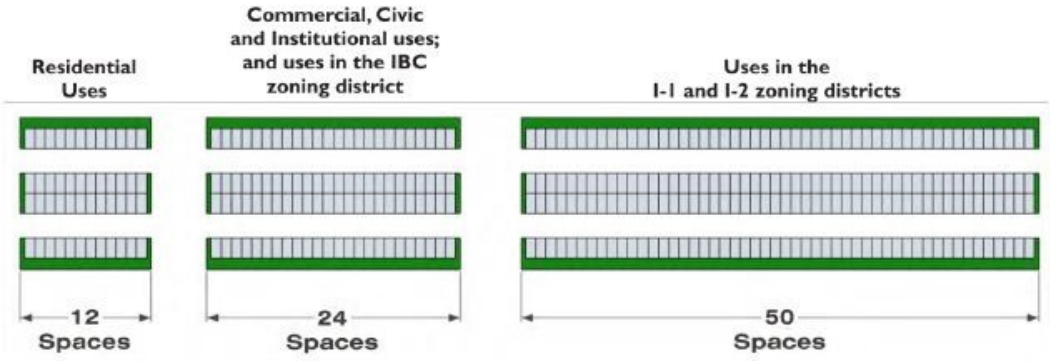


Figure 4-1: Interior Parking Islands

Parking lots with single-loaded spaces shall provide landscaping islands of 180 sq ft. Landscaping islands shall be increased to 360 sq ft for parking lots which use double loaded parking spaces. [See section 4.1(F)(2)(a)]

Figure 4-2: Landscaped Islands Spacing

Per section 4.1(F)(2)(a)(ii) and Table 4-1, the maximum number of parking spaces between landscaped islands differ depending on the use or zoning district as shown here.



2. The maximum length of a parking bay to be bounded by interior planting islands shall be in accordance with Table 4-1.

TABLE 4-1: LANDSCAPED ISLAND REQUIREMENTS

Use Type

Maximum Number of Parking Stalls Between Islands

TABLE 4-1: LANDSCAPED ISLAND REQUIREMENTS

Use Type

Maximum Number of Parking Stalls Between Islands

Residential Uses

Multi-family Uses

12 stalls between islands

Commercial, Civic, and Institutional Uses

Commercial Uses

24 stalls between islands

Civic & Institutional Uses

24 stalls between islands

Industrial Uses

Industrial & Business Campus District Uses

24 stalls between islands

All Other Industrial Uses

50 stalls between islands

3. Landscaped planting areas shall be distributed throughout the parking area for the purpose of heat abatement.

4. Driveway and primary drive aisle medians shall have a minimum width of four feet for medians containing shrubs and six feet for medians containing both shrubs and understory trees.

5. Each interior planting island shall contain at least one canopy or understory tree per every 180 square feet, or portion thereof, of the total landscape island area.

6. Shrubs shall be planted within landscaping islands at a minimum rate necessary to ensure that at least 25% of the total land area occupied by landscaping islands is planted with shrubs.

(b) Protection of planting areas. Except as exempted by the Community Development Department, all planting areas shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods. This standard shall not prohibit the use of planting areas as on-site stormwater management devices.

(3) Perimeter vehicular use area landscaping standards. Where a vehicular use area serving a use subject to these standards abuts a street right-of-way, vacant land, or any other development (except another vehicular use area), perimeter landscaping strips shall be provided and maintained between the vehicle use area and the abutting right-of-way or property line in accordance with the following standards (perimeter vehicular use area landscaping counts towards overall required site landscaping, see division (E)(3)).

(a) Location.

1. Perimeter landscaping strips shall be located on the same land where the vehicular use area is located, and shall be placed to assure visibility and safety of pedestrians on the public street, as well as those within the vehicular use area.

2. Perimeter landscaping strips may not be placed within future street rights-of-way as may be identified on the City’s Official Map.

(b) Minimum width. When a vehicular use area is located within 50 feet of a street right-of-way, the perimeter landscaping shall be located

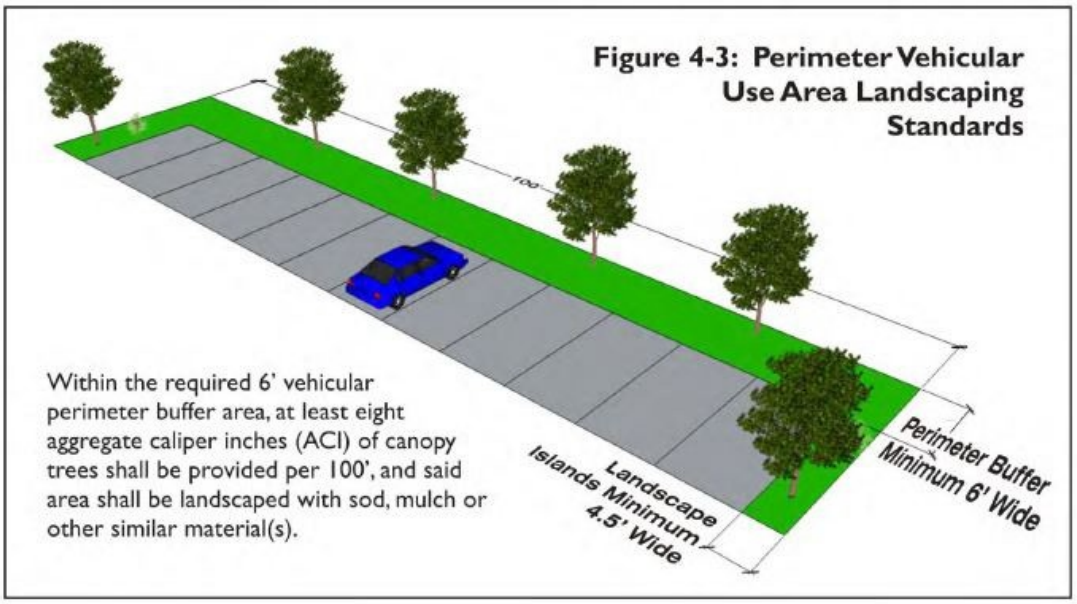
within a planting strip at least six feet wide. In all other instances, the strip shall be the minimum width necessary to assure required landscaping is not damaged by vehicles or other on-site activity. In no instance shall the strip be less than three feet wide.

(c) Protection of landscaping strip. Except as exempted by the Community Development Department, the perimeter landscaping strip shall be protected from vehicle damage by the installation of curbing, wheel stops, extra width in the landscaping strip, or other comparable methods. This standard shall not prohibit the use of perimeter landscaping strips as on-site stormwater management devices.

(d) Required Materials (see Figure 4-3). Each perimeter landscaping strip shall include at least eight aggregate caliper inches (ACI) of canopy trees per 100 linear feet of landscaping strip, and the remaining ground shall be landscaped (sod, mulch, etc).

(e) Adjacent to perimeter buffers. Perimeter landscape strips associated with a vehicle use area may be credited towards perimeter buffer standards [See § 153.060(H), Standards for Perimeter Buffers], provided the minimum buffer standards of this section are met.

(f) Adjacent to off-street surface parking on other lots. Where two or more off-street surface vehicular use areas are located adjacent to one another, but upon different lots, no perimeter landscaping strip shall be required between the two vehicular use areas.



(4) Incentives for improved design.

(a) The total aggregate caliper inch requirements for canopy and understory trees in § 153.060(F) may be reduced by 5% when:

1. At least 65% of the provided parking is located to the side or rear of the building;

2. At least 30% of the total required parking is subject to a shared parking agreement; and

3. When pervious parking surfacing is used for 20% or more of the total vehicular use area.

(b) The above incentives may be combined to achieve a cumulative reduction in the amount of required tree ACI.

(H) Standards for perimeter buffers.

(1) Purpose and intent. Perimeter landscape buffers are intended to mitigate potential negative effects of different contiguous uses.

(2) Applicability. Except for adjoining single-family detached residential uses, adjoining commercial and industrial uses occurring within the same zoning district boundary, and uses in the CCD district, all development shall provide a perimeter landscape buffer to separate it from uses in a different use classification in accordance with Table 4-2: Buffer Types, and Table 4-3: Buffer Type Application.

(3) Types of buffers. Table 4-2: Buffer Types, describes four different buffering types in terms of their function, opacity, width, and planting requirements. Where a particular buffer type is required in Table 4-3: Buffer Type Application, the requirement may be met with the combination of minimum buffer width and minimum screening requirements specified under either Option 1 or Option 2. Where an option utilizing a fence or wall is selected, the fence or wall shall comply with the standards of Section 4.3, Fences and Walls.

TABLE 4-2: BUFFER TYPES
ACI=AGGREGATE CALIPER INCHES

Minimum Screening Requirements Within the Perimeter Buffer [1][2][3][4]

Buffer Type and Configuration

Option 1: Minimum Width of 20 feet

Option 2: Minimum Width of 10 feet [5]

TABLE 4-2: BUFFER TYPES
ACI=AGGREGATE CALIPER INCHES

Minimum Screening Requirements Within the Perimeter Buffer [1][2][3][4]

Buffer Type and Configuration

Option 1: Minimum Width of 20 feet

Option 2: Minimum Width of 10 feet [5]

TYPE A - BASIC BUFFER

This perimeter buffer functions as basic edge demarcating individual properties with a slight visual obstruction from the ground to a height of ten feet.

2 ACI of canopy trees + 10 ACI of understory trees + 15 small shrubs per 100 linear feet

TYPE B – AESTHETIC BUFFER

This perimeter buffer functions as an intermittent visual obstruction from the ground to a height of at least 20 feet, and creates the impression of special separation without eliminating visual contact between uses.

8 ACI of canopy trees + 10 ACI of understory trees + 15 small shrubs per 100 linear feet

2 ACI of canopy trees + 14 ACI of understory trees + 35 small shrubs per 100 linear feet

TYPE C – SEMI-OPAQUE BUFFER

This perimeter buffer functions as a semi-opaque screen from the ground to at least a height of six feet.

12 ACI of canopy trees + 14 ACI of understory trees + 25 small shrubs per 100 linear feet

One 4-foot high berm or one 4-foot high solid fence + 2 ACI of canopy trees + 16 ACI of understory trees per 100 linear feet

TYPE D – OPAQUE BUFFER

This perimeter buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation.

18 ACI of canopy trees + 20 ACI of understory trees + 55 small shrubs per 100 linear feet

One 6-foot high solid fence + 12 ACI of canopy trees per 100 linear feet

[1]: Any required perimeter buffer width can be reduced to five feet with the provision of a solid masonry wall at least five feet in height along with ten large shrubs per every 100 linear feet.

[2]: Perimeter buffer widths (but not vegetation amounts) may be reduced in accordance with § 153.028(G) upon approval of an Alternate Landscape Plan under the provisions of § 153.060(F) if adhering to these requirements is not possible.

[3]: In cases where an adjacent use is designed for solar access, understory trees can be substituted for canopy trees.

[4]: Required plantings shall conform to the planting standards outlined in § 153.060(C)(2).

[5]: Fences and walls shall comply with the standards in § 153.062, Fences and Walls.

(4) Determination of required buffer type. Table 4-3 specifies the type of perimeter landscape buffer that new development shall provide between it and adjacent property, based on the uses present on the development site and that on the adjacent property. The buffer type is indicated by a letter corresponding to one of the four buffer types depicted in Table 4-2, Buffer Types.

TABLE 4-3: BUFFER TYPE APPLICATION

Existing Use Type on Abutting Land [1]

Proposed Use Type

Single-Family Residential

All Other Residential

Civic and Institutional Uses

Office and Commercial Uses

Industrial Uses

TABLE 4-3: BUFFER TYPE APPLICATION

Existing Use Type on Abutting Land [1]

Proposed Use Type

Single-Family Residential

All Other Residential

Civic and Institutional Uses

Office and Commercial Uses

Industrial Uses

Single-family residential

n/a

A

B

C

D

All other residential

A

n/a

A

B

D

Civic and institutional uses

B

A

n/a

A

D

Office and commercial uses

C

B

A

n/a

C

Industrial uses

D

D

D

C

n/a

[1]: Letters in cells correspond to the buffer types listed in Table 4-2, Buffer Types.

[2]: Multi-family, townhouse, multi-building campus or shopping center type developments shall provide buffers around the perimeter of the development instead of around individual buildings.

(5) Location of perimeter buffers.

(a) Perimeter buffers required by this section shall be located only along the outer perimeter of the parcel where it abuts the adjacent impacted another parcel, and shall extend to the parcel boundary line or right-of-way line.

(b) In an industrial district, perimeter buffers are not required along lot lines abutting streets except as provided for in Tables 4-2 and 4-3 when abutting non-industrial districts. In such cases, the outdoor operation or storage components shall include perimeter buffers as necessary to screen outdoor use areas from off-site views.

(c) A perimeter buffer may be located along shared access easements between parcels in nonresidential developments.

(6) Responsibility for buffer installation.

(a) Vacant parcels. Where a developing parcel is adjacent to a vacant parcel and a perimeter buffer is required in accordance with this section, the developing parcel shall provide a minimum of one-half of the perimeter buffer required adjacent to the vacant land.

(b) Existing land uses. Where a developing parcel is adjacent to an existing use and a perimeter buffer is required in accordance with this section, the developing parcel shall provide the full perimeter buffer required adjacent to the existing use in accordance with Table 4-2, Buffer Types, and Table 4-3: Buffer Type Application, unless a portion or all of a perimeter buffer that complies with the standards of this section already exists between the lots. Where all or part of a perimeter buffer exists, but the buffer does not fully comply with the standards of this section, the developing parcel shall be responsible for providing all the additional planting material necessary to meet the standards of this section.

(7) Development within required buffers.

(a) The required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this section or that require removal of existing vegetation, unless otherwise permitted in this chapter.

(b) Sidewalks, trails, and other elements associated with passive recreation may be placed in perimeter buffers if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent practicable.

(c) Overhead and underground utilities required or allowed by the city are permitted to cross a required buffer in a perpendicular fashion, but shall minimize the impact to vegetation to the maximum extent practicable. Where required landscaping material is damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this chapter.

(8) Sight triangles. Fencing, berms, walls, and all other landscaping features shall adhere to the requirements of § 153.042(D)(2)(b), Corner Visibility.

(9) Credit for existing vegetation. Existing vegetation meeting the size standards of § 153.060(C)(2), Planting Standards, located within the perimeter buffer area may be preserved and credited toward the perimeter buffer standards.

(I) Standards for required screening.

(1) General requirements. In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from off-site views. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

(2) Items to be screened. The following areas shall be screened in accordance with this section:

(a) Anything specifically called out by this chapter as requiring screening.

(b) Large trash handling and recycling collection areas (e.g., dumpsters and cardboard recycling containers).

(c) All loading and service areas shall be screened and landscaped from abutting and surrounding residential uses and public rights-of-way.

(d) Allowed outdoor storage areas adjacent to a public right-of-way.

(e) New construction, demolition, or other site conditions that could be unsafe for pedestrians or vehicles.

(3) Screening methods. The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.

(a) Vegetative materials that can provide a 90% opacity-year round screen and which are the minimum height necessary to screen the facility from offsite views; or

(b) An opaque fence or wall meeting the following requirements:

1. The fence or wall shall be consistent with the standards in § 153.062, Fences and Walls.

2. The fence or wall shall be constructed of masonry, brick, wood, masonry free vinyl or steel constructed to be similar in appearance to materials commonly sold as fence material.

3. The fence or wall shall provide a solid screening effect and not exceed the maximum height allowed for fences or walls in the underlying zoning district, or be less than six feet in height.

4. The design and materials used in constructing a required screening fence shall be subject to the approval of the Community Development Department.

(c) Alternative screening materials that are not listed above or alternative configurations may be proposed as part of an alternative landscaping plan [see § 153.060(E)], if the alternative materials or configuration provide an equivalent or superior screening function.

(4) Configuration of vegetative materials. In cases where vegetative materials are used for screening in accordance with this division, the vegetative materials shall:

(a) Be planted around the perimeter of the site feature to be screened in a manner that screens the site feature from all off-site views;

(b) Be configured in two staggered rows or other arrangement that provides maximum screening;

(c) Be upright, large evergreen shrubs and capable of reaching at least six feet in height within three years of planting; and

(d) Be spaced no farther than three feet on-center.

(5) Rooftop screening.

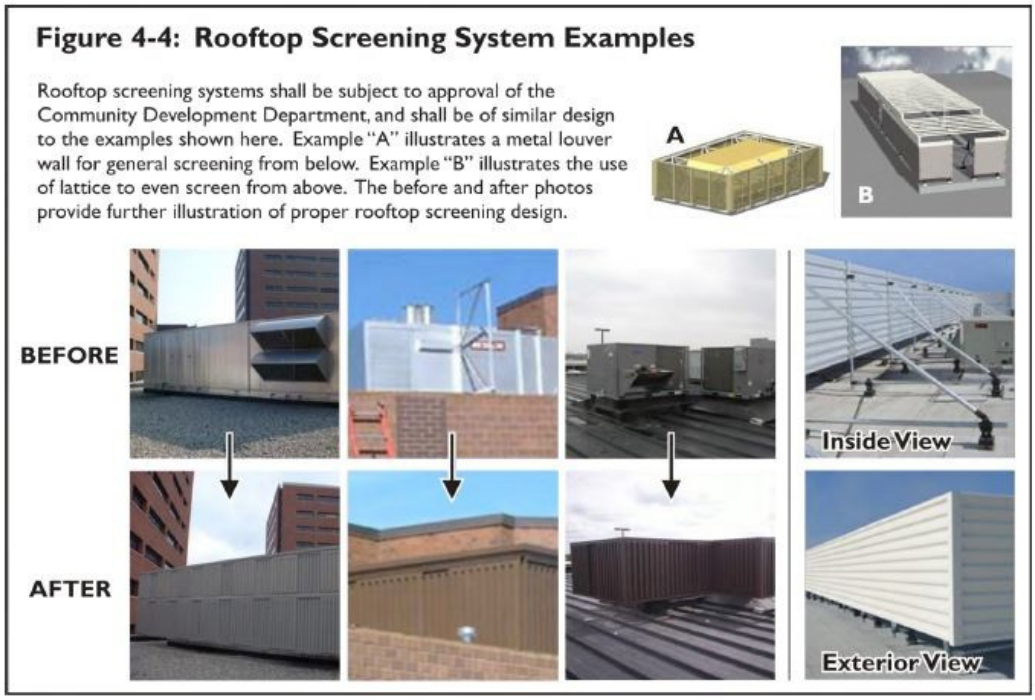
(a) General roof penetrations. All roof vents, pipes and/or other roof penetrations (except chimneys), shall be fully screened, located on the rear elevations, or be otherwise configured to the maximum extent practicable to have a minimal visual impact as seen from a public street.

(b) Exceptions. Rooftop screening standards shall not apply to I-1 or I-2 zoned properties.

(c) Roof-based mechanical equipment.

1. Parapet walls or other techniques included as an integral part of the building design shall be used to totally screen any roof-based mechanical equipment from public rights-of-way or adjacent lands.

2. In cases where roof-based mechanical equipment are too tall to be screened by a parapet wall, or if changes in the surrounding grade make rooftops with parapets visible from public rights-of-way or adjacent lands, a rooftop screening system shall be used for screening (see Figure 4-4).



(J) Zoning specific landscaping standards.

(1) Residential Amenities (RA) District Landscaping Requirements. RESERVED.

(2) Traditional Neighborhood (TN) District Landscaping Requirements. Lots in the TN district shall adhere to the following additional landscaping requirements:

(a) No less than 60% of the square footage of the front yard area shall be planted in garden meeting the following requirements:

1. Four caliper inches of canopy trees, which must be no less than three caliper inches at DBH at time of planting, plus two ornamental trees. Trees may be planted in front or side yard.

2. No less than one shrub per 20 square feet of front yard area.

3. No less than one deciduous flower planting per 20 square feet of front yard area.

(b) No private driveway leading to a garage may be more than 24 feet in width at the front yard property line.

(c) Lot area that is not covered by shrubs and trees may be covered with lawn, gardens, and patios or decks.

(d) A landscaping plan must be approved by the Community Development Department prior to issuance of a building permit.

(e) A landscape security shall be provided to ensure the landscaping of each lot in accordance with this section.

(3) CCD District Landscaping Requirements.

(a) No less than 10% of any parcel shall consist of landscaping, including plant materials, decorative paved surfaces, landscape structures, public art, water features, or other similar site improvements. This percentage shall not include required landscaping within parking lots or circulation areas, but may include pedestrian areas on private property. Tree and shrub planting shall be as required by § 153.060(H), but may include trees planted within the public right-of-way abutting the property line toward meeting this replacement.

(b) Landscaping within parking and circulation areas shall be as required by § 153.060(F).

(c) All other landscaping requirements of § 153.060 shall apply within the CCD.

(4) Industrial and Business Campus (IBC) District Landscaping Requirements. All IBC lots must include and maintain an operational irrigation system for the full site at time of certificate of occupancy unless excluded by an approved alternative landscaping plan for native plantings.

(K) Landscaping installation and maintenance standards.

(1) Time for installation of required landscaping.

(a) Time limit. All required landscaping (including mulching and seeding) shall be installed in accordance with the required planting standards set forth in this section prior to issuance of a certificate of occupancy unless the Community Development Department grants an extension to this time limit in accordance with § 153.060(K)(1)(b) below.

(b) Extensions.

1. The Community Development Department may, for good cause shown, grant extensions to the above time limit, allowing a developer/owner to delay the installation of required landscaping. Circumstances that may warrant an extension include but are not limited to the following:

a. Unusual environmental conditions such as drought, ice, or over-saturated soil (deep mud);

b. It is not yet the appropriate planting season for the approved plant species;

c. Credible evidence that the approved plant species or required plant sizes are not commercially available and cannot be substituted within a reasonable time despite an applicant’s diligent effort to secure the required materials; or

d. Completion of utility work occurring in a proposed landscaped area is incomplete or delayed.

2. Upon receipt of a performance guarantee, the city may issue a temporary certificate of occupancy for a maximum period of up to 180 days.

(2) Maintenance of landscaping materials. The owner shall be responsible for the maintenance of all required landscaping. Such areas shall be maintained in accordance with the approved landscape plan or alternative landscape plan and shall present a healthy and orderly appearance free from refuse and debris. All plant life shown on an approved landscape plan or alternative landscape plan shall be replaced if it dies, is seriously damaged, or removed.

(a) Damage due to natural occurrence. In the event that any vegetation or physical element functioning to meet the standards of this section is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the owner or developer may be required to replant if the landscaping standards are not being met. The owner shall have one growing season to replace or replant. The Community Development Department shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural re-vegetation in making a determination on the extent of replanting requirements.

(b) Protection during operations. The owner or developer shall take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. Plants shall be maintained in a way that does not obstruct sight distances at roadway and drive intersections, obstruct traffic signs or devices, or interfere with the use of sidewalks or pedestrian trails.

(c) Maintain shape. All required trees (whether canopy, understory, or otherwise) shall be maintained in their characteristic natural shape, and shall not be severely pruned, sheared, topped, or shaped as shrubs. Trees that have been severely pruned, sheared, topped, or shaped as shrubs which no longer serve the intended buffering or screening function shall be considered as damaged vegetation in need of replacement in accordance with § 153.060(K)(2)(a) Damage Due to Natural Occurrence, and shall be replaced within one growing season.

(d) Natural death. The natural death of existing vegetation within any required landscape area does not necessarily constitute a violation and does not require re-vegetation to replace the plant material unless the required landscape area no longer complies with the required standards of this section. Further, the screening is expected to remain effective continually, so any plant material which dies or ceases to function as a screen shall be replaced or reinforced immediately to conform to city ordinance.

(3) Agreement and security. A landscaping security shall be submitted with the building permit application. Such security guarantees that in exchange for building permit, the owner will construct, install and maintain all items shown on the approved plan and that they will replace and or correct any deficiencies or defaults that occur in the plan for a period of one complete year or two complete growing seasons subsequent to the complete installation according to approved landscaping plan.

(Ord. 799, passed 2-27-2023)

§ 153.061 TREE PROTECTION.

(A) Purpose. The purpose of this section is to preserve existing natural resources of the community and to encourage the greening of the city. The City Council finds that the preservation of trees and other vegetation, where practicable, is in the best interest of city residents' health and welfare. To that end, the City Council has found it necessary and desirable to establish regulations to ensure the city preserves its most significant trees and clusters of exiting trees throughout the city.

(B) Protection of specimen trees.

(1) Applicability.

(a) In general. All development in the city, except that exempted in accordance with § 153.061(B)(1)(b) below, shall be required to protect specimen trees in accordance with this section.

(b) Exemptions. The following development shall be exempt from these standards:

1. Development on land within the CCD zoning district and all other commercially and industrially zoned properties;

2. Development on land containing an existing single-family detached residential dwelling on a lot-of-record which cannot be further subdivided.

(2) Separate plan required. The location, species, and size of all specimen trees to be retained in accordance with this section shall be depicted on a separate inventory and protection plan clearly depicting all required information.

(3) General requirement.

(a) No specimen tree may be removed, except in accordance with § 153.061(B)(4), Removal of a Specimen Tree ("specimen tree" is defined in § 153.012).

(b) All specimen trees shall have the following protections, whether located on public or private land:

1. Cutting, removal, or harm prohibited. Specimen trees shall not be cut, removed, pushed over, killed, or otherwise harmed.

2. Paving or soil compaction prohibited. The area within the dripline of any specimen tree shall not be subject to paving or soil compaction greater than 10% of the total area within the dripline, or within 12 feet of the tree trunk.

(4) Removal of a specimen tree. Specimen trees may be removed if the landowner demonstrates to the Community Development Department that one of the following sets of conditions is met:

(a) Removal of a healthy specimen tree. A specimen tree that is in healthy condition may only be removed if all of the following standards are met:

1. The specimen tree prevents development of a lot platted prior to the effective date of this chapter as denoted in § 153.004 in a way that limits building area to less than otherwise allowed, or hinders compliance with the standards in §§ 153.040 through 153.047, §§ 153.060 through 153.072, and §§ 153.090 through 153.093.

2. Mitigation is provided in accordance with § 153.061(B)(5), Replacement/Mitigation of Specimen Trees.

(b) Removal of a severely diseased, high risk, or dying specimen tree. A specimen tree that is certified as being severely diseased, high risk, or dying by a certified arborist may be removed without required mitigation.

(5) Replacement/mitigation of specimen trees. Those causing the destruction or removal of a healthy specimen tree, unless exempted by this chapter, shall be responsible for the following mitigation:

(a) Replacement trees required.

1. Each healthy specimen tree removed or destroyed shall be replaced with three or more replacement trees equaling or exceeding a total of 18 aggregate caliper inches.

2. The required replacement trees shall be planted within 12 months of the removal or destruction of the specimen tree.

(b) Location of replacement trees. Replacement trees shall be either planted on the parcel of land from which the specimen tree was removed if sufficient space is available, or placed on nearby lands in accordance with § 153.060(E), Alternative Landscape Plan.

(c) Establishment period. Replacement trees shall be maintained through an establishment period of at least two complete growing seasons. The applicant shall guarantee the survival and health of all replacement trees during the establishment period and guarantee any associated replacement costs. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees.

(C) Tree protection during construction.

(1) Owner’s responsibility. During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

(2) Tree protection fencing and tree save areas.

(a) Where required. Specimen trees and other existing trees being used for credit towards landscaping requirements shall be fenced with a sturdy and visible fence before grading or other development activity begins. Fencing shall be erected no closer than one linear foot to the tree’s dripline. The Community Development Department shall consider the existing site conditions in determining the exact location for tree protection fencing. Areas located inside of tree protection fencing are considered “tree save areas”.

(b) Inspection. All tree protection measures shall be inspected and approved by the city prior to start of any land disturbing activities. Failure to have tree protection measures approved prior to the commencement of construction is a violation of this chapter.

(c) When required. No construction, grading, equipment or material storage, or any other activity shall be allowed within the tree save (fenced) area. Fencing shall be maintained until after the final site inspection.

(3) Encroachments into tree save areas. Encroachments into specimen tree save areas shall occur only when no other alternative exists. If such an encroachment is anticipated, the following preventive measures shall be employed:

(a) Soil compaction. Where compaction might occur due to construction traffic or materials delivery through a tree save area, the area must first be mulched with a minimum four inch layer of wood chips. Equipment or materials storage shall not be allowed within a tree save area.

(b) Fill. No fill shall be placed within a specimen tree save area without adequate venting to allow air and water to reach the roots.

(c) Chemical contamination. Trees located within a specimen tree save area shall be protected from chemical contamination from liquids or other materials, including but not limited to paint, chemical solvents, gasoline, oil, diesel fuel, hydraulic fluid, concrete spoils, or rinse water from vehicle cleaning, including rinsing of concrete truck tanks and chutes.

(d) Paving limitations. Except for driveway access points, sidewalks, curb, and gutter; no paving shall occur within five feet of a specimen tree save area unless authorized through an alternative landscaping plan [See § 153.060(E), Alternative Landscaping Plan].

(D) Tree preservation incentives.

(1) Tree preservation credits. In order to encourage the preservation of as many healthy trees as practical on a development site, credit towards the minimum landscaping requirements shall be applied to all existing trees retained on a site that are not specimen trees that comply with the credit standards of this division. Credits are offered only for trees that are not required to be retained by other sections of this chapter. Credits shall be granted in accordance with the following standards:

(a) Credit amount. A credit of one-and-one-quarter multiplied by the aggregate caliper of trees that are not specimen trees shall be credited and applied towards the landscaping standards in § 153.060, Landscaping and Screening, when the trees that are saved comply with the following minimum size standards:

1. Canopy trees. Canopy trees, whether deciduous or evergreen, of seven inches in caliper or greater, measured six inches above ground level.

2. Understory/ornamental trees. Understory or ornamental trees, whether deciduous or evergreen, of four inches in caliper or greater, measured four inches above ground level.

(b) Credit applied towards required plantings. The credit shall be applied to the aggregate tree caliper inch standards for landscaping. In no case shall credits substitute for more than 75% of the required landscaping material.

(c) Exclusions to credit provisions. Dead, dying or diseased trees shall not be used towards crediting.

(2) Reduction in the minimum number of required parking spaces. Up to a 5% reduction in the number of off-street parking spaces required on a development site shall be allowed if the reduction in the amount of required pavement will preserve the root zones of existing healthy specimen trees. The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be agreed upon by both the applicant and the Community Development Department. Alternative paving materials may be required by the Community Development Department in cases where required parking areas encroach upon root zones.

§ 153.062 FENCES AND WALLS.

(A) Purpose and intent. The purpose and intent of this section is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within residential and business districts; protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls; and ensure the safety, security, and privacy of properties.

(B) Applicability.

(1) In general. Unless exempted in accordance with § 153.062(B)(2) below, the provisions of this section shall apply to the construction, reconstruction, or replacement of all fences or walls in the city. In the event of any conflict between the provisions of this section and any screening standard in § 153.060(I), Screening, the latter shall govern.

(2) Exemptions. The following are exempted from the requirements of this section.

(a) Development in the CCD District. Development on lots in the CCD district is exempt from the standards of this section.

(b) Recreational fencing. Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility.

(c) Temporary fencing. Temporary fencing established around construction sites, demolitions, or other site conditions unsafe for pedestrians or vehicles, provided it is consistent with the building code.

(C) General requirements for fences and walls.

(1) Location.

(a) Fences and walls are permitted anywhere on a lot subject to the following restrictions:

1. The corner visibility requirements in § 153.042(D)(2)(b) shall be met.

2. Fences and walls shall not be located within public right-of-way.

3. Fences and walls permitted by the Community Development Department to be within easements are subject to removal without compensation to the property owner if the city must access the area for maintenance or improvement purposes.

4. Fences and walls shall not be permitted within conservation easements unless specifically permitted by the easement.

5. Fences and walls must be set back no less than three feet from any public trail or sidewalk.

(b) Fences and walls may be located directly over a property line between two or more parcels of land held in private ownership.

(c) A certificate of survey may be required by the Community Development Department to determine the location of fences and walls on a property.

(2) Blocking natural drainage flow.

(a) No fence shall be installed so as to block or divert a natural drainage flow on to or off of any other land.

(b) Drainage swales may not be filled to accommodate the construction of fences or walls without alternate stormwater provisions being reviewed and approved by the Community Development Department.

(c) Nothing in this section shall be construed to prevent the installation of temporary fencing to protect existing trees, limit sedimentation, or control erosion.

(3) Fences and walls within buffers. Fences and walls shall be installed so as not to disturb or damage existing vegetation or installed plant

material. The perimeter fencing or wall for a single development shall be of a uniform style that complies with the standards of this section.

(4) Permit requirements.

(a) A building permit is required for the construction of any fence or wall that will be more than seven feet in height above grade, or for construction of a retaining wall that is more than four feet in height from the bottom of the footing to the top of the wall.

(b) Fences which do not require a building permit under the provisions of § 153.062(D)(4)(a) above may be constructed without a permit, but shall adhere to all fencing requirements in this chapter.

(D) Requirements for fences and walls by district type. All fences and walls shall conform to the following standards. In all cases, heights are measured from finished grade on the highest side of the fence or wall.

(1) Residential districts. In residential districts (see Table 3-1: Base Zoning Districts), fences and walls shall conform to the following:

(a) Front yards.

1. Fences and walls shall not exceed a height of four feet in front yards and that part of side yards from the front lot line to the front building line.

2. Fences and walls must be setback at least six feet from the property line when adjacent to a public right-of-way.

3. Fences and walls must be setback at least three feet from a public sidewalk or pathway.

(b) Side or rear yards.

1. Fences and walls shall not exceed a height of seven feet in side and rear yards.

2. In side or rear yards which abut a public street, fences or walls which exceed 36 inches in height must be set back at least six feet from the property line.

3. Fences and walls must be setback at least three feet from a public sidewalk or pathway.

(c) Transparency. Fences or walls located within a front yard adjacent to a street shall maintain a minimum of 50% transparency.

(d) Access. Where any fence or wall connects to a building used as a dwelling, at least one gate not less than two feet six inches in width shall be required to allow access around the building.

(2) Business districts.

(a) General. In business districts (see Table 3-1: Base Zoning Districts), fences and walls shall not be permitted in front yards, except as may be allowed by the security provisions of this section, and shall not exceed a height of seven feet in side or rear yards. If a fence is constructed on top of a retaining or other wall, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone (see also § 153.042(D)(2)(b), Corner visibility, for additional restrictions on fence placement).

(b) Major utilities, wireless communications, government facilities, and other public safety uses. Fences and walls in front, side, and rear yards of major utilities, wireless communication towers, government facilities, and other public safety uses shall not exceed eight feet.

(3) Industrial districts.

(a) Industrial and Business Campus District.

1. Fences and walls shall not be permitted in front yards;

2. Fences shall adhere to the following yard-based requirements:

a. In all side yards, a fence shall not exceed seven feet in height.

b. In all rear yards, a fence shall not exceed 15 feet in height provided a building permit is obtained for any additional height over seven feet.

3. In no event shall a fence exceed seven feet in height if the fence is located within 20 feet of a public right-of-way.

(b) I-1 and I-2 Districts.

1. Fences and walls shall not be permitted in front yards;

2. Fences shall adhere to the following yard-based requirements:

a. In all side and rear yards, a fence shall not exceed 15 feet in height provided a building permit is obtained for any additional height over seven feet.

3. In no event shall a fence exceed seven feet in height if the fence is located within20 feet of a public right-of-way.

(4) Vacant property. Vacant property may be fenced if the fence does not exceed four feet in residential districts and eight feet in business or industrial districts, the fencing maintains a minimum transparency of 50%, and the purpose of the fencing is to discourage unauthorized dumping or

unauthorized parking on the property. Fencing of the vacant property shall not be construed to allow use of the property for outdoor storage.

(E) Exemption for security plan. A property owner or tenant or a representative of a public agency responsible for a government facility, public safety use, or other use in need of heightened security may submit to the Community Development Department a site security plan proposing fences or walls taller than those permitted by this section or proposing the use of barbed or concertina wire atop a fence or wall for security reasons. The Community Development Department may approve or approve with conditions the site security plan and its proposed exemption of fences or walls from the standards of this section, upon finding:

(1) Taller fence or wall needed for safety or security reasons. The condition, location, or use of the property, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land, or represent a significant hazard to public safety without a taller fence or the use of barbed or concertina wire atop a fence or wall; and

(2) Not have security, functioning appearance of adjacent properties. The proposed taller fences or walls or use of barbed or concertina wire will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent properties or the surrounding area as a whole.

(F) Perimeter fences and walls abutting public rights-of-way.

(1) Fences or walls located within 15 feet of a street or public right-of-way shall:

(a) Be of a uniform style;

(b) Be located outside the public right-of-way;

(c) Include breaks, offsets, access points, or other design details in the wall plane at least every 200 feet.

(G) Prohibited fences. Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, wooden landscape lattice or waste materials are prohibited in all zoning districts unless such materials have been recycled and reprocessed for marketing to the general public as building materials that resemble new building materials and are designed for use as a fencing material (e.g., picket fencing made from recycled plastic and fiber). No metal “t” posts shall be permitted.

(H) Chain link fencing. Chain link fencing shall be allowed, subject to the following standards:

(1) All districts. In all districts, chain link fences must have a top rail, and barbed ends must be placed at the bottom of the fence.

(2) Residential districts. Chain link fencing is permitted on lots within residential zoning districts provided it does not include opaque slats, and does not exceed a height of four feet in the front yard and does not exceed five feet in the side and rear yard.

(3) Business districts. Chain link fencing shall not be allowed on lots within a business zoning district unless expressly authorized through approval of a security plan under the provisions of § 153.062(E).

(4) Industrial districts. Chain link fencing shall be allowed on lots within industrial zoning districts provided it does not include opaque slats and is coated with black or dark green vinyl.

(I) Barbed or razor wire. Barbed or razor wire is prohibited except as expressly authorized through approval of conditional use permit relating to of a security plan under the provisions of § 153.062(E).

(J) Appearance.

(1) Customary materials. Fences and walls shall be constructed of any combination of treated wood posts and vertically-oriented planks; maintenance free vinyl, rot-resistant wood; wrought iron; decorative metal materials; brick; stone; or masonry materials. Where wood, masonry, or other opaque materials are specified for particular types of screening or buffering fences or walls, all other fence materials are prohibited.

(a) In residential districts, metal materials of 14-gauge or better, when treated with factory-applied weather resistant coating or galvanized, and framed at top and bottom with materials as listed in division (J)(1) above are permitted.

(b) Metal or vinyl fence used for garden areas in residential areas may not exceed 24 inches in height.

(c) In the I-2 District, metal fences may be permitted when the materials have been recycled and reprocessed to resemble new building materials and are designed for use as a fencing material, and when such materials are designed to resemble allowed materials as listed in section (J)(1) above.

(2) Finished side to outside. Wherever a fence or wall is installed, if one side of the fence or wall appears more “finished” than the other (e.g., one side has visible support framing and the other does not), then the more “finished” side of the fence shall face the perimeter of the lot rather than the interior of the lot.

(3) Compatibility of materials along a single lot side. All fencing or wall segments located along a single lot side shall be composed of a uniform style and colors compatible with other parts of the fence and with the associated buildings.

(4) Landscape screening. All fences and walls exceeding four feet in height and located within 15 feet of a public street right-of-way in commercial and industrial districts, or as otherwise required by this chapter, shall be supplemented with landscape screening in accordance with the following standards to soften the visual impact of the fence or wall.

(a) Shrubs required. One evergreen shrub shall be installed for every fifteen linear feet of fence or wall, on the side of the fence or wall facing the public street right-of-way. Shrubs shall meet the size standards of § 153.060(C)(2) Planting Standards, and may be installed in a staggered, clustered, grouped, or linear fashion.

(b) Substitution of understory trees. One understory or ornamental tree may be substituted for every three evergreen shrubs provided that the tree meets the size standards of § 153.060(C)(2) Planting Standards.

(c) Integration with other required landscaping. Required landscape screening for fences or walls may be integrated into the landscaping required for vehicular use area screening or perimeter buffers, provided the standards in § 153.060 Landscaping and Screening Standards, are maintained.

(5) Maintenance required. Every fence or wall must be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance. Fences or walls in a state of disrepair may be removed by the city as provided by Minnesota Statutes. The cost of removing fences may be levied against the property as a special assessment.

(Ord. 799, passed 2-27-2023)

§ 153.063 EXTERIOR LIGHTING.

(A) Purpose. The purpose of this section is to regulate light spillage and glare to ensure the safety of motorists and pedestrians, and to ensure lighting does not adversely affect land uses on adjacent properties. More specifically, this section is intended to:

(1) Regulate exterior lighting to mitigate adverse impacts. Regulate exterior lighting to assure that excessive light spillage and glare are not directed at adjacent properties, neighboring areas, and motorists;

(2) Ensure proper insulation. Ensure that all site lighting is designed and installed to maintain adequate lighting levels on site while limiting negative lighting impacts on adjacent lands; and

(3) Provide security. Provide security for persons and land.

(B) Applicability.

(1) In general. The provisions of this section shall apply to all development in the city unless exempted in accordance with § 153.063(C) below. For new development, including new signs, the Community Development Department may require specification plans and light distribution plans to verify compliance with these standards.

(2) Time of compliance. An exterior lighting plan shall be submitted and approved along with an application for a site plan [§ 153.028(F)], subdivision [City Code], building permit [§ 153.028(I)], or temporary use permit [§ 153.028(L)], whichever occurs first.

(C) Exemptions. The following is exempted from the exterior lighting standards of this section.

(1) Single-family detached dwellings;

(2) Existing athletic field lighting;

(3) City-owned, -operated, or -maintained street lights located within a street right-of-way or other easement granted to the city; and

(D) General standards for exterior lighting.

(1) Hours of illumination. Public and institutional uses, commercial uses, and industrial uses (See Table 5-1) that are adjacent to existing residential development or vacant land in residential districts shall turn off all exterior lighting—except lighting necessary for security or emergency purposes—within one hour of closing. For the purposes of this division, lighting “necessary for security or emergency purposes” shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways, or to illuminate outdoor storage areas. Such lighting may be activated by motion sensor devices.

(2) Illumination direction. In all districts, lighting shall be directed downward. In addition, upwardly-directed lighting shall not be used to illuminate structures, except for low-wattage architectural lighting or lighting for the American flag.

(E) Design standards for exterior lighting. All exterior lighting shall meet the following standards:

(1) Maximum lighting height.

(a) Except for outdoor sports fields or performance areas, the height of outdoor lighting, whether mounted on poles or walls or by other means, shall be no greater than 16 feet in residential districts and no greater than 25 feet in business districts.

(b) Wherever possible, illumination of outdoor seating areas, building entrances, and walkways shall be accomplished by use of ground mounted fixtures not more than four feet in height.

(2) Shielding and fixtures.

(a) Exterior. Light fixtures in excess of 60 watts or 100 lumens shall use full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets.

(b) Interior. No interior light source shall be positioned, aimed, or configured so as to result in the light source being visible from land occupied by existing residential development.

(c) Canopies. No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.

(d) Awnings. Awnings or canopies used for building accents over doors, windows, etc., shall not be internally illuminated (i.e., from underneath or behind the awning). Illumination casting downward from the awning may be allowed provided that the light source shall not extend downward farther than the lowest edge of the awning.

(3) Maximum illumination levels. All outdoor lighting and indoor lighting visible from outside shall be designed and located so that the maximum illumination measured in footcandles at ground level at a property line or right-of-way center line shall not exceed the standards in Table 4-5, Maximum Illumination Levels. Cut-off lighting shall be designed to direct light downward (e.g., shoe box style).

TABLE 4-5: MAXIMUM ILLUMINATION LEVELS

Type of Use [1]

Maximum Illumination (footcandle)

All uses

0.5 at all ROW center lines

Residential or civic & institutional use

0.5 at property line

Commercial or industrial use

1.0 at property line

Parking lots

1.0 at property line

[1]: See Table 5-1: Uses by District

(F) Wall pack lights. Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. Wall packs on the exterior of the building shall be fully shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward and be of low wattage (preferably 100 watts or lower). Wall pack light sources visible from any location off the site are prohibited.

(G) Exemptions for a security plan. Government facilities, parks and open areas, utilities, and public safety (see Table 5-1) where sensitive or dangerous materials are stored may submit to the Community Development Department a site security plan proposing exterior lighting that deviates from the standards in this division. The Community Development Department shall approve, or approve with conditions, the site security plan and its proposed deviation from the standards of this division, upon finding that:

(1) Deviation necessary to protect public or ensure security. The proposed deviation from the standards is necessary for the adequate protection of the public;

(2) Significantly greater danger of theft or damage without additional lighting. The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage, or members of the public are at greater risk for harm than on surrounding land; and

(3) Deviation is minimum required and will not have adverse effect. The proposed deviation from the standards is the minimum required, and will not have a significant adverse effect on neighboring lands.

(H) illumination of outdoor sports fields and performance areas. Lighting of outdoor sports fields and performance areas shall comply with the following standards:

(1) Glare control package. All lighting fixtures shall be equipped with an existing glare control package (e.g., louvers, shields, or similar devices)

and aimed so that their beams are directed and fall within the primary playing or performance area.

(2) Hours of operation. The lighting system for any game or event shall be extinguished after the end of the game or event.

(I) Sign lighting. Lighting fixtures illuminating signs shall comply with the standards of this section, and exterior light sources shall be aimed and shielded so that direct illumination is focused exclusively on the sign face and the light source is not visible from off-site areas. A light distribution plan or other information demonstrating compliance with the lighting requirements of this chapter.

(J) Lighting requirements for the CCD District.

(1) Parking lot lighting shall be consistent with the common lighting style for fixtures and poles within the CCD design guidelines, or as adopted by the City Council.

(2) Public street lighting shall be consistent with a common lighting style throughout the CCD, based on a style for fixtures and poles to be identified in the city’s public improvement specification.

(Ord. 799, passed 2-27-2023)

§ 153.064 SIGNS.

(A) Findings, purpose, and effect.

(1) Findings. The city finds:

(a) Exterior signs have a substantial impact on the character and quality of the environment.

(b) Signs provide an important medium through which individuals may convey a variety of messages.

(c) Signs can create traffic hazards and aesthetic concerns, thereby threatening the public health, safety and welfare.

(d) The city's zoning regulations include the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.

(2) Purpose and intent.

(a) It is not the purpose or intent of § 153.064 to regulate the message displayed on any sign; nor is it the purpose or intent of this section to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building.

(b) The purpose and intent of § 153.064 is to:

1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.

2. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.

3. Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.

4. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the city.

(3) Effect. A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of this chapter. The effect of § 153.064, as more specifically set forth herein, is to:

(a) Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in § 153.064.

(b) Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of § 153.064.

(c) Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.

(d) Provide for the administration and enforcement of the provisions of § 153.064.

(B) Permit required. No sign shall be erected, altered, improved, reconstructed, maintained or moved in the city without first securing a sign permit from the city:

(1) The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

(2) Application for a sign permit shall be in conformance with the requirements of § 153.028(K), Sign Permits:

(C) Permit not required. The following signs shall not require a permit and are allowed in addition to those signs allowed by § 153.064(I) and § 153.064(J) of this section. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this section or any other law or ordinance regulating the same.

(1) The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on site changes involving sign painting on a surface other than the surface of the building.

(2) Permanent signs two square feet or less in size.

(3) One temporary sign per property in residential districts not to exceed four square feet.

(4) In a state general election year, noncommercial signs of any size may be posted in any number 46 days before the state primary in a state general election year until ten days following the state general election. Election signs posted in connection with elections held at times other than those regulated by M.S. § 211B.035, as it may be amended from time to time, shall not be posted more than 13 weeks prior to the election and shall be removed by the party responsible for the erection of the sign or the property owner within ten days after the election. All such noncommercial signs are permitted on private property in any zoning district with the express consent of the owner or occupant of such property.

(5) Official and public signs.

(6) One sign shall be allowed per street frontage when a property is offered for sale or lease, provided that:

(a) Within residential zoning districts (see table 3-1), no sign shall exceed 12 square feet in area and six feet in height for single-family, two-family, townhouse, and quadraminium units; or 32 square feet in area or eight feet in height for multi-family or institutional uses.

(b) For non-residential zoning districts (see table 3-1), as well as for any parcel larger than ten acres in any zoning district, signs may be up to 96 square feet in area or 12 feet in height as defined in this chapter. One additional such sign shall be allowed for any street frontage which exceeds

1,000 linear feet. For the purposes of this section, frontage on any right-of-way, including local streets, county or state highways, or I-94 shall constitute a “frontage”, regardless of access.

(7) Sandwich board signs are allowed within all business zoning districts (see table 3-1) provided that:

(a) Not more than one sign is allowed per principal building except that one sign is allowed per tenant within a principal building having two or more tenants each with an exclusive exterior entrance.

(b) The sign shall only be displayed when the business is open to the public.

(c) Except in the CCD district, the sign shall be placed only on the business property and shall be located within required principal building setbacks, or encroaching into required setback areas a maximum of five feet, and shall not be placed on any vehicle.

(d) The signs shall be located so as to maintain a minimum five-foot pedestrian walkway and so as not to obstruct vehicular traffic.

(e) The sign shall be set back a minimum of two feet from the back of curb of a public street or private drive aisle.

(f) The sign shall conform to the following height and area requirements:

1. Height: Five feet.

2. Area: Six square feet.

(g) For sandwich board signs within the CCD district, sandwich board signs may be located in accordance with the provisions of division (c) above. In addition, such signs may be placed upon the sidewalk or boulevard portion of a public right-of-way upon the issuance of an annual permit in accordance with the provisions and process of § 153.028(K).

(D) Prohibited signs. The following signs are prohibited:

(1) Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

(2) All off-premises signs unless specifically provided for by this chapter.

(3) Flashing signs.

(4) Roof signs.

(5) Rotating signs.

(6) Shimmering signs.

(7) Signs which move or imitate movement, except for dynamic scrolling signs as defined in this chapter.

(8) Signs painted, attached or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, or similar public structures.

(9) Off-premises signs:

(a) Off premise signs existing as nonconforming structures at the time of adoption of this chapter greater than six square feet in area shall be considered a principal use of property.

(b) Annual permits are required for all off-premises signs. Off-premises signs shall be removed as a condition of construction of another principal use upon the property or platting or subdivision approval for the land on which it is located.

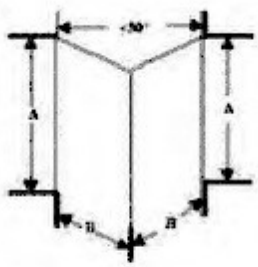
(10) Abandoned signs.

(E) Nonconforming signs and uses.

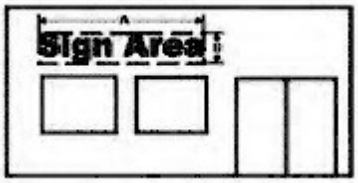
(1) Signs. A nonconforming sign lawfully existing upon the effective date of this chapter as denoted in § 153.004 shall be regulated in accordance with §§ 153.105 through 153.110.

(2) Uses. When the principal use of land is legally nonconforming under §§ 153.105 through 153.110, all existing or proposed signs in conjunction with that land use shall be considered conforming if they are in compliance with the sign provisions for the most restrictive zoning district in which the principal use is allowed.

(3) When a sign is considered to be nonconforming due to size, location, or other factor, but represents a conforming use of land, such sign may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless it is considered to be abandoned as defined by this chapter. When a nonconforming sign has been damaged to an extent of 50% or more of its market value, such sign shall be considered to be abandoned if no building or sign permit has been applied for within 180 days of the date of damage.



TOTAL AREA = (A)(B)+(A)(B)



Wall Sign Area Calculation

Monument Sign Area Calculation

Pylon Sign Area Calculation

(F) Enforcement and penalties. Section 153.064 shall be administered and enforced in accordance with the provisions of §§ 153.120 through 153.124 and § 153.999.

(G) Substitution. The owner of any sign which is otherwise allowed by § 153.064 may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision

is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

(H) General provisions.

(1) Accessory structures. Except as provided for by § 153.064(D)(9), all signs shall be considered accessory structures.

(2) Setbacks. All freestanding signs shall be set back 15 feet from any property line abutting a public right-of-way and five feet from any side or rear property line. No sign may be located within a drainage and utility easement. A certificate of survey may be required to verify sign setback in accordance with this chapter.

(3) Standards adopted. The design and construction standards as set forth in Chapter 4 of the 1997 edition of the Uniform Sign Code as may be amended, are hereby adopted.

(4) Electrical signs. The installation of electrical signs shall be subject to the State's Electrical Code. Electrical service to such signs shall be underground.

(5) Approval. No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the Community Development Department.

(6) Sign interference. No signs, guys, stays or attachments shall be erected, placed or maintained on trees nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof.

(7) Illuminated signs. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the driver and may not interfere with or obscure traffic signs or signals. Lighting may not illuminate any adjacent properties, buildings, or streets. Notwithstanding this provision, LED (Light Emitting Diode) light displays may be installed without shielding of the light source provided that:

(a) Unshielded LED light displays may only be located on properties within the FBS, Freeway Bonus Sign District, an overlay zoning district as defined in § 153.046(G).

(b) Unshielded LED lights are not installed in any area that abuts residentially zoned property.

(c) Unshielded LED lights are not installed in such a way as to direct light towards residentially zoned property within 500 feet of the light source.

(d) Unshielded LED lights may not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness;

(e) Dimmer control. Unshielded LED lights must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise.

(8) Placement. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

(9) Square footage calculation (total area = A x B):

(a) For wall signs, the area of a sign shall be that area within the marginal lines created by the sign surface which bears the advertisement or, in the case of messages, figures or symbols attached directly to the part of a building, which is included in the smallest rectangular figure which can be made to circumscribe the message, figure, or symbol displayed thereon.

(b) For monument signs, area shall be calculated as for wall signs. Structural members of the sign, including supports or other decorative features shall not be considered as a part of the measured sign area.

(c) For pylon signs, the entire area of the sign face or cabinet shall be considered as a part of the measured sign area. Structural supports, provided that they have no message or other graphics, shall be exempt from the area calculation.

(d) A freestanding sign or sign structure constructed so that the faces are not back to back, shall not have an angle separating the faces exceeding 30 degrees unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.

(10) Height. The top of a wall sign, including its superstructure, if any, shall be no higher than the roof of the building to which such sign may be attached.

(11) Landscaping. A site plan shall be submitted as a part of any application for a freestanding sign which includes plans for the landscaping of the area near the sign, and which demonstrates that the sign will complement the existing or proposed general site landscaping of the property.

(12) Vehicle fuel facilities. Signs for vehicle fuel facilities shall be regulated by the sign provisions for the zoning district in which the facility is located, except that within a freestanding sign, an area not to exceed 16

square feet shall be allowed for continuous display (no flashing, scrolling or other animation) of electronic or non-electronic changeable copy identifying current fuel prices in accordance with M.S. § 239.751, as it may be amended from time to time.

(13) Window signs. Window signs in the CCD zoning district shall comply with the requirements of the applicable Monticello CCD Sign regulations. Window signs are not considered a part of the maximum sign area otherwise allowed under § 153.064 and do not require a permit.

(14) Changeable copy signs.

(a) Changeable copy signs are subject to the following additional regulations:

1. Signs must be permanently anchored to the structure.

2. Signs must be incorporated within the overall sign structure for both monument and pylon signs and must be consistent in design with the sign structure.

(b) Within commercial and industrial districts and for civic and institutional uses including, but not limited to, public school facilities, hospital and medical facilities, municipal facilities and places of public assembly, one changeable copy sign shall be allowed per site provided that the area of the sign not exceed 25% of the allowable sign area or 50 square feet, whichever is less, for a freestanding or wall sign. The area of this sign shall be counted against the maximum sign area for the building, except where the property owner has agreed to forgo the use of temporary signs in accordance § 153.064(I)(2) in which case the area of the changeable copy sign shall be allowed in excess of the maximum sign area.

(15) Time and temperature signs. Within commercial and industrial zoning districts, an area not to exceed 16 square feet within a freestanding or wall sign shall be allowed for display of an electronic time and temperature sign subject to the sign provisions for the zoning district in which the sign is located.

(16) Projecting signs. Projecting signs may be allowed in commercial districts provided that:

(a) There is a minimum of eight feet of clearance under the base of the sign to the ground below.

(b) The sign does not project more than five feet beyond the wall to which it is mounted, may not project over any vehicular drive aisle or traveled portion of a public or private street and except in the CCD, Central Community District may not project over a public right-of-way.

(c) The area of the projecting sign is not more than 50% of the maximum area allowed for an individual wall sign in the respective zoning district in § 153.064(J).

(17) Dynamic displays.

(a) Findings. Based on studies related to the use of dynamic sign displays and driver distraction, the city finds that dynamic signs, as defined by the zoning ordinance, have a unique potential to create driver distraction, a major cause of traffic crashes. As a result, the city has adopted special regulations that relate to such signs. These regulations shall apply to all proposed dynamic signage in the city, whether new or existing, conforming or nonconforming at the time of adoption of this chapter.

(b) Regulations governing dynamic sign displays.

1. Dynamic sign displays shall have messages that change instantaneously, and do not fade, dissolve, blink, or appear to simulate motion in any way. Prohibited blinking signs shall include signs which are displayed as continuous solid messages for less than the time required by division 3. below. The exception to this regulation is the allowance of messages that appear to scroll horizontally across the sign, but are otherwise in compliance with the requirements of this chapter, including the definition of “scrolling signs”.

2. With the exception of dynamic sign displays for civic or institutional uses, dynamic sign displays shall not be permitted in any residential zoning district.

3. Dynamic sign displays shall be permanent signs.

4. No dynamic sign display shall change more than one time per three second period; time and temperature displays may change as frequently as once every three seconds.

5. Dynamic sign displays shall be no brighter than other illuminated signs in the same district.

6. Dynamic sign displays shall be designed to freeze the display in the event of malfunction, and the owner shall discontinue the display immediately upon malfunction, or upon notice from the city that the display violates the city’s regulations.

7. Applicants for dynamic sign displays shall sign a license agreement supplemental to the building permit agreeing to operation of a sign in conformance with these regulations. Violation of these regulations shall result in forfeiture of the license, and the city shall be authorized to arrange disconnection of electrical service to the sign display.

8. With the exception of dynamic sign displays for civic or institutional uses, no dynamic sign display shall be permitted to be located in a yard or on the side of a building which abuts a residentially zoned or used parcel.

9. Dynamic sign displays for civic or institutional uses adjacent to or abutting residential uses or residentially zoned property shall be subject to the requirements of § 153.064(H) of this chapter and the following additional requirements.

a. Dynamic displays are limited to inclusion on existing or proposed monument signage as allowed by § 153.064(J); the total of such monument signage shall not exceed 100 square feet.

b. Dynamic displays shall not exceed 25% of the allowable sign area or 25 feet in total for the parcel, whichever is less, and shall be limited to one sign display per parcel.

c. Dynamic sign displays must be setback a minimum of 15 from the public right-of-way and 100 from the property line when adjacent to residential uses or residentially zoned property.

d. Dynamic sign displays must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise.

e. Dynamic sign displays shall not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign’s face at maximum brightness.

f. Dynamic sign displays may only be illuminated between the hours of 7:00 a.m. to 10:00 p.m.

(18) Design and materials standards for signs in commercial districts, industrial districts, the CCD District, PUDs.

(a) In general. The design and materials of any sign shall be consistent with the building materials requirements of the district in which the sign is located, and shall be the same as, or compatible with, the materials and design of the principal building(s) on the property.

(b) Specific materials for pylon signs. All exposed pole or post structures must be wrapped or faced with stucco, architectural metal, brick or stone consistent with building architecture.

(I) Temporary signs.

(1) For property in a Business District or an Industrial District (see table 3-1), the use of temporary sign devices shall not exceed 120 days per calendar year per business. When multiple temporary signs are permitted per parcel, such signs shall be spaced 75 lineal feet apart. The area of temporary sign devices shall not exceed 40 square feet. Off-premises temporary signage is prohibited. A temporary sign permit is required to be obtained prior to displaying the sign.

(a) The number of days and dates of use shall be provided on the permit application. Each business may request up to a total of four permits per calendar year, or until 120 days are reached cumulatively, whichever occurs first.

(2) In cases where properties forego, in writing, temporary signage allowed by § 153.064(I)(1) above, an additional permanent message board sign up to 50 square feet in area shall be allowed. Such sign may be incorporated into a property's freestanding sign or the building as additional wall sign area. Freestanding signs shall be subject to the height limitations of the applicable zoning district.

(3) Subject to other provisions of § 153.064(I), one additional temporary sign device shall be permitted for a business on a one-time basis for a period of up to 40 days to be utilized within six months of the first day of the business opening to the public. Such signage shall not be limited by the provisions of § 153.064(I)(2).

(4) Businesses or organizations with their activities located in the CCD, Central Business District, may display temporary, off-premise signs by express permit issued by the City Council or the Council's designee where access to commercial areas requires directional signage from the city's arterial roads. Signs allowed under this section shall be considered to be in addition to any other sign allowances, including permanent signage, other on-site temporary signs, or "sandwich board" signs displayed pursuant to § 153.064(C)(7). Signs allowed under this section may, at the discretion of the Council, be permitted under the following conditions:

(a) Off-premise, temporary signs shall be no more than four square feet in area.

(b) Off-premise temporary signs shall be no more than three feet in height.

(c) Off-premise temporary signs shall be limited to no more than one sign every 75 lineal feet of street frontage, but no more than three signs per parcel.

(d) Notwithstanding other regulations to the contrary, such signs may be placed upon the public sidewalk within a city street right-of-way. Any such sign placed on the public sidewalk shall be located so as to avoid

impeding pedestrian traffic, and to avoid visual interference with vehicular traffic.

(e) An application for an off-premise, temporary sign shall be accompanied by a written statement of permission from the owner of the private property on which the sign is located. Such statement shall include an express grant of permission for city inspectors to enter the property for the purpose of inspecting and/or removing said signs.

(f) An application for signs subject to the provisions of this section may be made for a single period of display, or in the alternative, the city may grant approval for annual license for the display of such signs in accordance with § 153.028(K). Separate fees may be established for single-period or annual-period permits.

(g) Eligible days for the display of signs subject to this section shall be Thursday, Friday, Saturday, or Sunday only.

(5) All signs comprised of non-commercial speech are permitted on private property in any zoning district with an established principal commercial, industrial, institutional, or public use, with the express consent of the owner of such property.

(a) The total area of such sign devices shall not exceed 40 square feet in total.

(b) Signs may be placed for up to 21 days per 30-day period.

(c) Signs may not be placed within the public right-of-way or easements.

(d) Such signs shall be spaced a minimum of 75 linear feet from any other sign on the site.

(e) No permit shall be required for such signage.

(6) Temporary signage may be located on a vacant parcel adjacent to a parcel occupied by an active and permitted principal use, when such properties are held in the same ownership.

(J) District regulations. In addition to the signs allowed by § 153.064(C) and § 153.064(I), the following signs shall be allowed within the specific zoning districts:

(1) Within residential zoning districts (see table 3-1), the following additional regulations apply:

(a) Except for the uses specified in § 153.064(J)(1)(b) and § 153.064(J)(1)(c) below, not more than one sign shall be allowed provided that:

1. The area of the sign shall not exceed four square feet.

2. Freestanding signs shall be limited to a maximum height of four feet.

(b) In addition to the sign allowed by § 153.064(J)(1)(a) above, residential uses shall be allowed one monument sign per collector or arterial street access. Such sign shall meet the requirements of this chapter and shall be constructed at the time of plat or phased plat development adjacent to the collector or arterial access.

(c) Civic and institutional uses shall be allowed two monument signs per lot meeting the requirements of this chapter.

(2) Within business and industrial zoning districts (see table 3-1), the following additional regulations shall apply:

(a) Total area of signs. The total area of all signs (with the exclusion of freestanding signs as may be allowed by this code) displayed on a lot shall not exceed 15% of the total building facade fronting not more than two public streets.

(b) Freestanding signs.

1. Unless otherwise specified in this section, one sign is allowed per lot. The area of a freestanding sign may not exceed 100 square feet each side with a maximum height of 22 feet.

2. If a monument, rather than pylon sign is utilized, an additional 100 square feet of area beyond the total area calculated in § 153.064(J)(2)(a) above, devoted to wall, canopy or marquee signs shall be granted.

3. In addition to the sign allowed by divisions 1. and 2. above, additional signage may be allowed per lot in an amount not to exceed three signs with an individual square footage maximum of ten square feet each and 30 total square feet. Such signage shall not exceed three feet in height. Signage shall be setback at least six feet from adjacent property lines and shall not be located within a public right-of-way or easement without a license agreement approved by the City Council. Such signs may not include changeable copy or dynamic displays.

4. For shopping centers greater than 150,000 square feet of aggregate building square footage and greater than 20 acres in site area, two freestanding signs may be permitted. Two pylon signs may be constructed or, as an alternative, one pylon and one monument sign may be constructed. When the latter option is chosen, the monument sign shall be no greater than 14 feet in height nor more than 100 square feet in area. The pylon sign may be no greater than 25 feet in height and 300 square feet in area.

(c) Wall, canopy, or marquee signs.

1. Wall, canopy, projecting, and marquee signs shall be consistent with the maximum area requirements of § 153.064(J)(2)(a).

2. Wall, canopy and marquee signs are permitted on any building facade except those which abut properties zoned for residential use.

(d) Multiple occupancy commercial and industrial buildings. When a single principal building is devoted to two or more commercial or industrial principal uses, signs shall be allowed subject to review and approval of the Community Development Department based upon the following requirements:

1. The maximum individual sign sizes for multiple occupancy buildings and individual businesses that may display a sign shall not exceed the maximum provisions in the same zoning district in § 153.064(J).

2. Commercial retail, office, or mixed use multiple occupancy buildings may display a single freestanding sign consistent with the applicable zoning district provisions in § 153.064(J).

3. Individual tenants of a multiple occupancy building within a commercial or industrial zoning district may display separate wall, canopy, or marquee signs subject to the following requirements:

a. Such sign shall be limited to the maximum wall sign size permitted in the applicable zoning district provisions in § 153.064(J). Sign area shall be calculated based on the facade area of each individual tenant space.

b. Such signs shall be located on exterior walls facing residentially zoned properties or properties on which a residential use exists.

c. A comprehensive sign plan is submitted that includes all of the following information:

(i) A site plan to scale showing the location of lot lines, buildings, structures, parking areas, existing and proposed signs, and any other physical features of the area included within the proposed comprehensive sign plan.

(ii) Elevations to scale of buildings included within the comprehensive sign plan including the location of existing or proposed wall, canopy, or marquee signs.

(iii) To scale plans for all existing and proposed signs of any type included within the comprehensive sign plan indicating area, dimensions, height, materials, colors, and means of illumination (if any).

d. No permit shall be issued for a new or replacement sign for an individual tenant except upon a determination by the Community Development Department that it is consistent with the approved comprehensive sign plan.

(Ord. 799, passed 2-27-2023)

§ 153.065 UNDERGROUND UTILITIES.

All utilities within or serving new development (e.g. cable television, electrical (excluding transformers), gas, sewer, telephone, and water lines) shall be placed underground.

§ 153.066 TRANSITIONAL FEATURES.

(A) Purpose and intent. Transitional features are architectural elements or site aspects that must be used to ease the transition between new development and existing structures and community character. It is the intent of these standards to:

(1) Blend land use types throughout the city to minimize visual conflicts;

(2) Limit the excessive consumption of land though the utilization of large vegetated buffers to separate potentially conflicting use types; and

(3) Limit interruptions in vehicular and pedestrian connections created by efforts to segregate uses.

(B) Applicability.

(1) Transitional features shall be required when:

(a) Adjacent residential lots contain differing densities (e.g. a single-family home site adjacent to a duplex);

(b) A lot is developing or redeveloping within the R-2, CCD or T-N zoning districts;

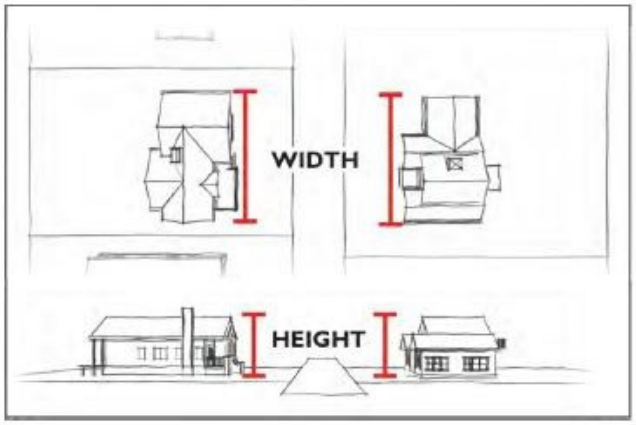
(C) Standards. In areas where transitional features are required, one or more of the following approaches shall be used, subject to approval and as required by the Community Development Department, to establish a transition between uses:

(1) Use setbacks that are within 25% of the average setbacks for existing uses on the same block face provided no new use is closer to the right-of-way than any existing use;

Figure 4-5: Average Setbacks
The new construction (highlighted in green) on the right demonstrates appropriate average setbacks. The dwelling highlighted in red on the left has a front setback that is too deep.

(2) Ensure the façade width and height between façades of structures on opposing sides of a street are consistent with each other such that neither façade exceeds the other's dimensions by more than 25%;

Figure 4-6: Façade Height & Width
Ensuring similar façade height and width dimensions of opposing façades can be an effective means of establishing a transition between uses.



(3) Graduate building height and mass in the form of building step-backs or other techniques so that structures with a higher intensity have a comparable scale with adjacent structures housing lower intensity uses;

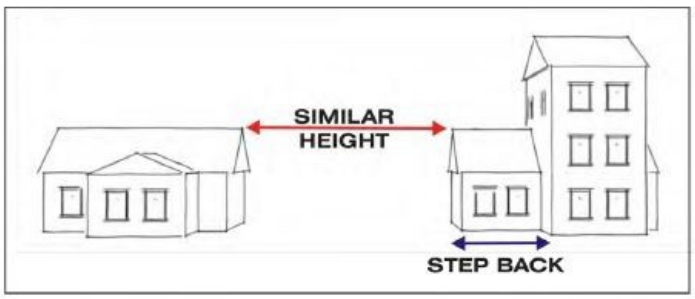
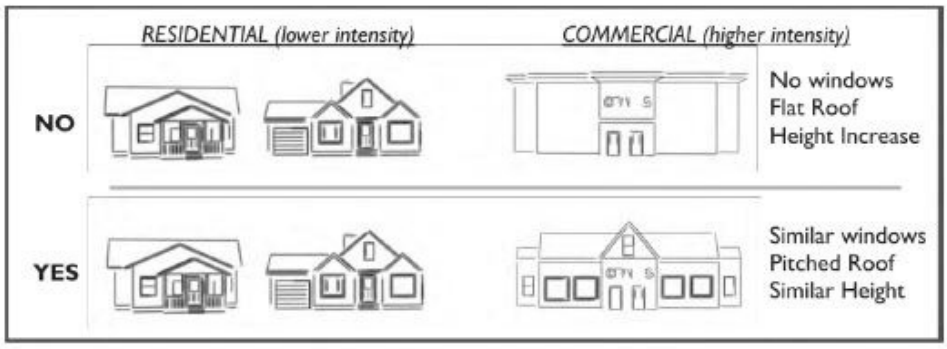


Figure 4-7: Step Back Construction
Step-backs in building heights between different use types can be an effective transitional element.

(4) Use similarly sized and patterned architectural features such as windows, doors, awnings, arcades, pilasters, cornices, wall offsets, building materials, and other building artic ulations included on the lower intensity use as depicted in Figure 4-8;

Figure 4-8: Architectural Features
The example on the bottom demonstrates effective use of transition features.



(5) Locate off-street parking, loading, service, and utility areas to the rear of structures, adjacent to similar site features on surrounding sites;

(6) Prevent incompatible exterior lighting or sources of audible noise or disturbance from building façades facing lower intensity uses;

(7) Prevent abrupt changes in roof form by allowing adjacent incompatible uses to use similar roof types, slopes, or arrangements;

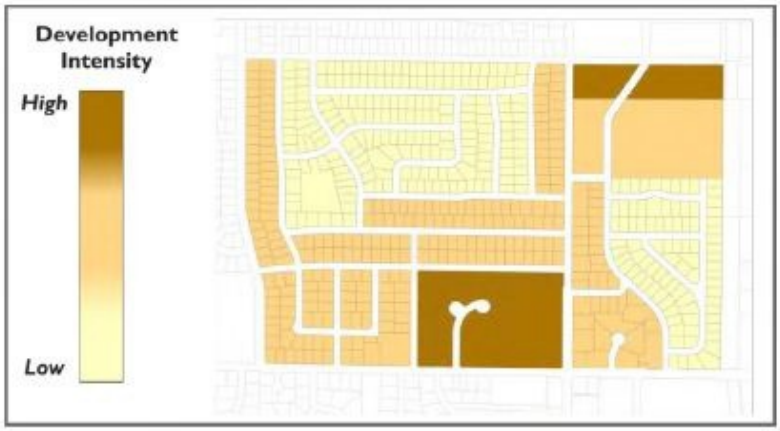
(8) Orient porches, balconies, outdoor space, and other site attributes such as vending machines associated with attached residential development away from adjacent detached residential uses;

(9) Orient primary building façades directly across from opposing primary façades regardless of use type (as seen in Figure 4-9); and

Figure 4-9: Parallel Primary Facades
Organizing buildings so that the primary façades face one another can serve as a transitional feature when two different building types occupy opposing sides of a street.

(10) When dealing with multi-building developments on one or more lots, establish a continuum of use intensity where uses of moderate intensity (darkest colors in Figure 4-10) are sited between high-intensity uses (medium colors in Figure 4-9) and low-intensity uses (light colors in Figure 4-9) (i.e. retail to multi-family residential to detached residential).

Figure 4-10: Staggering Intensity
Multi-building developments can be organized to concentrate the highest intensity uses in a single area and feather the intensity and density outwards from high intensity centers.



(11) Provide landscape buffer Type "A" consistent with this chapter.

(Ord. 799, passed 2-27-2023)

§ 153.067 OFF-STREET PARKING.

(A) Purpose. The regulation of off-street parking spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) Application of off-street parking regulation. The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the city.

(C) Change in use or occupancy.

(1) Change in use or occupancy of land.

(a) Any change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall not be made, nor shall any sale of land, division, or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by these zoning regulations.

(b) Off-street parking spaces and loading spaces or lot area existing upon the effective date of this chapter as denoted in § 153.004 shall not be reduced in number or size unless said number of size exceeds the requirements set forth herein for a similar new use.

(2) Change in use or occupancy of a building. Any change of use of occupancy of any building or buildings, including additions thereto, requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by these zoning regulations.

(3) Site plan drawing necessary. In all zoning districts, all applications for a building permit or prior to a change in use for an existing building or as required for a certificate of occupancy in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of off-street parking and loading spaces in compliance with the requirements set forth in § 153.067.

(D) Prohibited uses related to off-street parking.

(1) Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale, or rental of goods; or storage of inoperable vehicles and/or storage of snow.

(2) For single-family and two-family dwellings, off-street parking of passenger, small construction, emergency or any other commercial vehicles in the rear yard is prohibited as illustrated in Figure 4-11 and in Table 4-9.

(3) Except for temporary uses as permitted by § 153.093 and trailers parking in a designated loading area, no vehicle may be parked and used for storage of items in any district.

(E) Standards applicable to all uses.

(1) Location of required parking.

(a) Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served except under the provisions of § 153.067(G)(3), subject to the public improvement project exception as regulated by § 153.106(D)(1).

(b) Except for single, two-family, townhouse dwellings and parcels in the CCD, head-in parking directly off of and adjacent to a public street with each stall having its own direct access to the public street shall be prohibited.

(c) Except in the case of single, two-family, and townhouse dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley.

(d) Except in the case of single, two-family, and townhouse dwellings and parcels in the CCD, parking area design which requires backing into the public street is prohibited.

(e) All accessory off-street parking facilities required by this chapter shall be located and restricted as follows:

1. For single-family and two-family dwellings, the part of a paved driveway within boulevard portion of the street right-of-way shall only be used for parking in a manner that does not block any public sidewalk or pathway.

2. In the case of single-family dwellings, parking shall be prohibited in any portion of the rear yard. In the case where the only attached or detached garage on a property is located in the rear yard, parking may be allowed in designated driveways leading directly into a garage, or on one open surfaced space located on the side of a driveway away from the principal use as shown in Table 4-9 and Figure 4-11. Said extra space shall be surfaced as required by Table 4-9 and Figure 4-11.

3. In the case of single-family dwellings, parking in the side yard shall be allowed on a surfaced space as shown in Table 4-9 and Figure 4-11.

(f) All parking must occur on a paved surface except as may be permitted by this chapter.

(2) Vehicular use area design.

(a) Curb cuts and access.

1. Each property shall be allowed one curb cut access per 125 feet of street frontage. All property shall be entitled to at least one curb cut.

2. The maximum driveway width at the property line shall not exceed 30 feet and shall taper to a width not to exceed 28 feet at the public street.

3. Within all districts, a five foot radius curb may be constructed at the public street in addition to the maximum driveway width allowed.

4. Driveway access curb openings on a public street except for single, two-family, and townhouse dwellings shall not be located less than 40 feet from one another.

5. No curb cut access shall be located less than 40 feet from the intersection of two or more street rights-of-way. This distance shall be measured from the intersection of lot lines.

6. All driveway access openings shall require a culvert unless the lot is served by storm sewer or is determined unnecessary by the

Community Development Department. Size of culvert shall be determined by the Community Development Department but shall be a minimum of 15 inches in diameter.

7. Except for single, two-family, and townhouse residential development (and as otherwise noted in this chapter), all open vehicular use areas shall have a perimeter concrete curb barrier around the entire parking lot, said curb barrier shall not be closer than six feet to any lot line as measured from the lot line to the face of the curb.

(b) Stall, aisle, and driveway design.

1. Each parking space shall be not less than nine feet wide and 20 feet in length exclusive of access aisles, and each space shall be served adequately by access aisles. EXCEPTION: Where desired, up to 25% of the parking spaces may be not less than seven and one-half feet in width and not less than 16 feet in length when served adequately by access aisles to accommodate compact car parking and should be marked as such.

2. Except in the case of single-family, two-family, and townhouse dwellings, parking areas and their aisles shall be developed in compliance with the following standards:

TABLE 4-6: PARKING STALL AND AISLE STANDARDS

Angle

Wall to Minimum

Wall to Interlock Minimum

Interlock to Interlock Minimum

30

48.6’

44.5’

40.3’

45

56.8’

53.4’

50.0’

60

62.0’

59.7’

57.4’

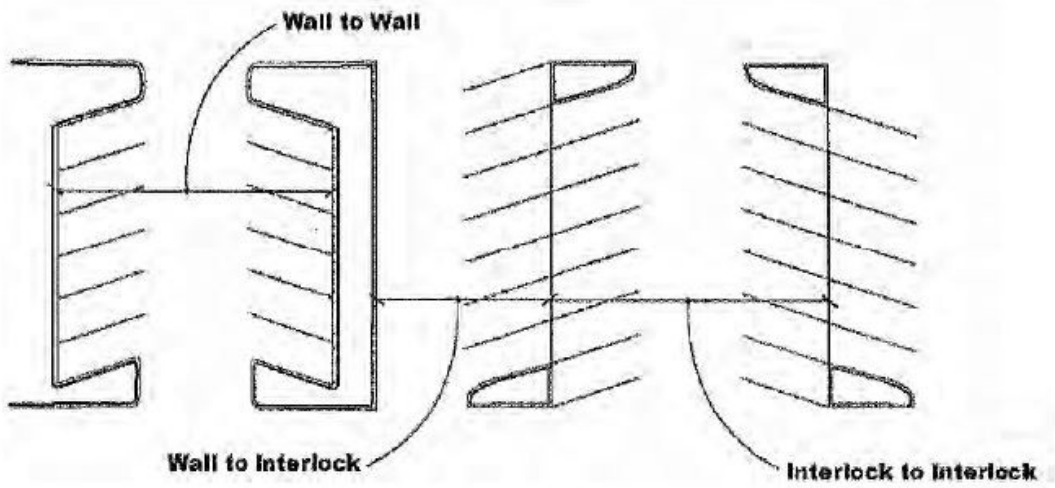
90

64.0’

64.0’

64.0’

Parallel Parking: 22 feet in length



(c) Surfacing.

1. Except in the case of single-family and two-family dwellings, driveways and stalls shall be surfaced with six inch class five base and two inch bituminous topping or concrete equivalent. Drainage plans shall be reviewed and subject to approval by the Community Development Department. The Community Development Department staff may waive this requirement if it is determined that the drainage plans do not merit further study. Community Development Department determination in this regard shall be based on the size of parking surface area, simplicity of design plan, and proximity/accessibility to existing storm sewer facilities.

2. The grade elevation of any parking area shall not exceed 5%.

(d) Striping. Except for single, two-family, and townhouses, all parking stalls shall be marked with white painted lines not less than four inches wide.

(e) Lighting. Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses, and public rights-of-way and be in compliance with § 153.063.

(f) Landscaping and screening. All open, non-residential, off-street parking areas of five or more spaces shall be screened and landscaped from abutting or surrounding residential districts in compliance with § 153.060(F).

1. Interior vehicular use area landscaping – see § 153.060(F)(2).

2. Perimeter vehicular use area landscaping – see § 153.060(F)(3).

3. Perimeter buffers – see § 153.060(G).

(g) Signs. No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot.

(3) Parking within a structure. The off-street parking requirements may be furnished by providing a space so designed within the principal building or one structure attached thereto; however, unless provisions are made, no building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this chapter.

(4) Vehicular use area stall calculation requirements.

(a) General provisions.

1. The minimum number of off-street parking spaces shown in Table 4-7 shall be provided and maintained by ownership, easement, and/or lease for and during the life of the respective uses hereinafter set forth.

2. When determining the number of off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.

3. In stadiums, sports arenas, churches, and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 22 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements.

4. Should a structure contain two or more types of use, each shall be calculated separately for determining the total off-street parking spaces required.

(b) Floor area.

1. The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the interior floor area dimensions of the buildings, structure, or use times the number of floors.

2. Whenever practical, final parking calculations shall be based on an actual building floor plan.

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

Residential Uses

Detached Dwelling

2.0 spaces for each dwelling unit

Duplex

2.0 spaces for each dwelling unit

Townhome

2.5 spaces for each dwelling unit, of which two must be enclosed, plus one guest parking space for every four units

Multiple-Family

In general

1.2 spaces for each bedroom, of which one must be enclosed, plus one guest parking space for every four units

Senior housing - independent living

0.67 spaces per dwelling unit, plus one guest parking space for every six units

Senior housing - assisted living

4.0 spaces plus 0.67 spaces per dwelling unit, plus one guest parking space for every six units

Group Residential Facility, Single-family

2.0 spaces for each three persons for whom sleeping accommodations are provided

Group Residential Facility, Multi-Family

2.0 spaces for each three persons for whom sleeping accommodations are provided

Manufactured Home

2.0 spaces per manufactured home

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

Civic and Institutional Uses

Active Park Facilities (public or private)

5.0 spaces for each acre of park over one acre; two spaces per acre for playgrounds; and ten spaces for each acre of play field

- When a public recreation site has more than one use designation, the areas must be divided for determining the required parking

Assisted Living Facilities

4.0 spaces plus .67 spaces per dwelling unit, plus one guest parking space for every six units

Baseball Fields, Stadium

1.0 space for each eight seats of design capacity

Cemeteries

See Parking Schedule #2 [§ 153.067(H)(3)]

Clinics/Medical Services

4.0 spaces for each 1,000 square feet

Hospitals

2.0 spaces per each bed

Nursing/Convalescent Home

4.0 spaces plus one for each three beds for which accommodations are offered

Passenger Terminal

8.0 spaces plus one additional space for each 800 square feet of floor area over 1,000 square feet

Passive Parks and Open Space

See Parking Schedule #2 [§ 153.067(H)(3)]

Public Buildings or Uses

10.0 spaces plus one for each 150 square feet in excess of 2,000 square feet of floor area in the principal structure

Schools, Kindergarten through Junior High

1.0 space for each classroom plus one additional space for each 50 student capacity

Schools, High School & post-secondary

1.0 space for each seven students based on design capacity plus one for each three classrooms

Place of Public Assembly

1.0 space for each four seats based on the design capacity of the main assembly hall

- Facilities as may be provided in conjunction with places of public assembly shall be subject to additional requirements which are imposed by this chapter

Utilities (major)

See Parking Schedule #2 [§ 153.067(H)(3)]

Commercial Uses

Adult Uses

1.0 space for each 100 square feet of floor space

Auction House

1.0 space for each 40 square feet of floor space.

- Outside sales area shall be added to the floor space of the principal building when determining square footage of floor space

Auto Repair – Minor

8.0 spaces plus one additional space for each 800 square feet of floor area over 1,000 square feet

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

Commercial Uses

Automotive Wash Facilities

10.0 spaces or one space for each employee on the maximum shift, whichever is greater

- For self service facilities, there shall be a minimum of two spaces

- If the wash facility is integrated into an approved vehicle fuel sales business, the wash facility shall require no additional parking

Bed & Breakfasts

1.0 space for each rental unit in addition to required residential off-street parking

Business Support Services

1.0 space for each 200 square feet of floor space

- If in the CCD district, one space per 350 square feet of floor space

Communications/Broadcast ing

1.0 space for each 400 square feet of floor space.

Convenience Stores

1.0 space for each 200 square feet of floor space

- If in the CCD district, one space per 350 square feet of floor space

Country Club

4.0 spaces per golf hole plus spaces provided for accessory uses in accordance with this chapter

Day Care Centers

1.0 space for each employee plus one space per five children

Entertainment/Recreation, Indoor Commercial

Bowling Alley

5.0 spaces for each alley plus additional spaces as may be required herein for related uses associated with the principal structure

Theater

1.0 space for each four seats based on the design capacity of the main assembly hall; facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements imposed by this chapter

- If the theater is located in the original plat of Monticello, the required spaces shall be reduced to 1.0 space per five seats

Other Uses

See Parking Schedule #2 [§ 153.067(H)(3)]

Offices, Professional and Commercial

1.0 space for each 350 feet of floor space

Entertainment/Recreation, Outdoor Commercial

10.0 spaces plus one for each 100 square feet of floor area inside an associated structure

Event Center

1.0 space for each two and one-half guests, measured by building capacity based on building code limits of all areas for the event, and one parking space for each 200 square feet for areas devoted to food preparation, event staging, and other support activities.

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

Commercial Uses (Cont'd)

Financial Institution

1.0 space for each 400 square feet of floor space.

Funeral Homes

20.0 spaces for each chapel or parlor, plus one space for each funeral vehicle maintained on the premises

- Aisle spaces shall also be provided off the street for making up a funeral procession

Hotels or Motels

1.0 space for each rental unit plus one space for each ten units and one space for each employee on the maximum shift

Kennels (commercial)

1.0 space for each 400 square feet of floor space.

Landscaping /Nursery Business

See Parking Schedule #1 [§ 153.067(H)(2)]

Personal Services

1.0 space for each 250 square feet of floor space

- If in the CCD district, one space per 350 square feet of floor space

Recreational Vehicle Camp Site

1.0 space per each recreational vehicle plus one guest space per ten recreational vehicles

Repair Establishment

See Parking Schedule #1 [§ 153.067(H)(2)]

Restaurants

Sit down/dining area

1.0 space for each 40 square feet of gross floor area of dining and bar area

Pick-up or Counter Area

1.0 space for each 15 square feet of gross floor area but not less than 15 spaces

Kitchen Area

1.0 space for each 80 square feet of kitchen area

Retail Commercial Uses

Grocery Uses

1.0 spaces for each 200 square feet

- If in the CCD district, one space per 350 square feet of floor space

General Retail

1.0 space for each 200 square feet

- If in the CCD district, one space per 350 square feet of floor space

- Home improvement retail uses shall require 1.0 space for each 225 square feet

Convenience Retail

1.0 space for each 250 square feet

Specialty Eating Establishments

1.0 space for each 200 square feet

- If in the CCD district, one space per 350 square feet of floor space

Vehicle Fuel Sales

4.0 spaces plus two spaces for each service stall (not pump)

- Those facilities designed for sale of other items than strictly automotive products, parts, or service shall be required to provide additional parking in compliance with other applicable sections of this chapter

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

TABLE 4-7: MINIMUM OFF-STREET PARKING SPACES BY USE

Use Type

Minimum # of Spaces & Additional Requirements

Commercial Uses (Cont'd)

Vehicle Sales and Rental

8.0 spaces plus one additional space for each 800 square feet of floor area over 1,000 square feet

Veterinary Facilities

1.0 space for each 250 square feet

Wholesale Sales

1.0 space for each 200 square feet

- If in the CCD district, one space per 350 square feet of floor space

Industrial Uses

Auto Repair – Major

See Parking Schedule #1 [§ 153.067(H)(2)]

Extraction of Materials

See Parking Schedule #2 [§ 153.067(H)(3)]

General Warehousing

8.0 spaces plus one space for each two employees on the maximum shift or, at a minimum, at least eight spaces plus one space for each 1,000 square feet of floor area

Truck or Freight Terminal

8.0 spaces plus one space for each two employees on the maximum shift or, at a minimum, at least eight spaces plus one space for each 500 square feet of floor area

Waste Disposal & Incineration

See Parking Schedule #1 [§ 153.067(H)(2)]

Wrecker and Towing Services

See Parking Schedule #1 [§ 153.067(H)(2)]

Heavy Manufacturing

See Parking Schedule #1 [§ 153.067(H)(2)]

Industrial Services

See Parking Schedule #1 [§ 153.067(H)(2)]

Light Manufacturing

See Parking Schedule #1 [§ 153.067(H)(2)]

Machinery/Truck Repair and Sales

See Parking Schedule #1 [§ 153.067(H)(2)]

Recycling and Salvage Center

See Parking Schedule #1 [§ 153.067(H)(2)]

Self-Storage Facilities

1.0 space per 100 lockers/units on the inside of the fenced area and at least five spaces outside the fenced area

- If a caretaker's quarters is provided on-site, at least one covered parking space for exclusive use by the caretaker shall be provided

3. Unusable space (e.g. entries, halls, service areas, bathrooms, etc) within uses may be excluded from floor area calculations when applicable.

4. Required parking spaces may be reduced through alternative development types (e.g. Planned Unit Development, etc) as permitted in this chapter.

(c) CCD district exceptions. Property owners in the CCD District shall comply with the parking supply requirements as listed in Table 4-7 of this chapter. However, property owners may be granted flexibility from a portion of their required parking supply under the following conditions:

1. Where the city finds that there will be adequate opportunity to provide public parking in the vicinity of the subject property, and at the city’s option, the owner shall pay into a “CCD” parking fund an amount as established by City Council Resolution. Said fund shall be used for the acquisition, construction, and/or maintenance of publicly-owned parking in the “CCD” district.

2. The city may, in addition to, or as an alternative to, the option listed in § 153.067(E)(4)(c)1. above, and at the discretion of the city, offer the property owner the opportunity to choose to supply parking at a rate which is 60% of the requirement listed in § 153.067 provided that the owner grants an easement to the public for automobile parking use over the subject area. The owner shall retain responsibility for maintenance of said parking area.

3. Location: Parking shall not be located on a parcel between the front building line of the principal building and the public street, except

where expressly provided for by the City Council after recommendation from the Planning Commission.

(d) Parking Stall Requirement: Schedule #1. Uses subject to Off-Street Parking Schedule #1 must provide the minimum number of off-street parking spaces indicated in Table 4-8, Off-Street Parking Schedule #1.

TABLE 4-8: OFF-STREET PARKING SCHEDULE #1

Activity

Number of Spaces Required

TABLE 4-8: OFF-STREET PARKING SCHEDULE #1

Activity

Number of Spaces Required

Office or administrative area

1.0 space per 300 square feet

Indoor sales area

1.0 space per 200 square feet

Outdoor sales, display, or storage area (3,000 sq. ft. or less)

1.0 space per 750 square feet

Outdoor sales, display, or storage area (over 3,000 sq. ft.)

1.0 space per 1,000 square feet

Indoor Storage/Warehousing/Vehicle Repair/Manufacturing Area

Less than or equal to 3,000 sq. ft.

1.0 space per 200 square feet

3,000 to 5,000 sq. ft.

1.0 space per 500 square feet

5,000 to 10,000 sq. ft.

1.0 space per 750 square feet

Greater than 10,000 sq. ft.

1.0 space per 1,250 square feet

(e) Parking Stall Requirement: Schedule #2. Uses subject to Off-Street Parking Schedule #2 have widely varying parking demand characteristics, making it very difficult to specify a single appropriate off-street parking standard. Upon receiving a development application for a use subject to Schedule #2 standards, the Community Development Department is authorized to apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking requirements on the basis of a parking study prepared by the applicant. The study must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Community Development Department, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study must document the source of data used to develop the recommendations.

(5) Vehicular use area design conditional use permit. Stall aisle and driveway design requirements outlined in § 153.067 may be lessened subject to the following conditions:

(a) Any reduction in requirements as provided in this section requires completion of the conditional use permit process outlined in § 153.028(D).

(b) Where a proposed use clearly demonstrates affirmative design efforts toward the preservation and enhancement of desirable natural site characteristics, ordinance-required paved parking spaces may be reduced and installation deferred until such time as the need for the full complement of parking. The need shall be determined in conformance with a "proof of parking" plan so approved through a conditional use permit.

(c) The applicant must show, and the Planning Commission must find, that there are existing nonconformities of the property or specific circumstances related to site conditions which justify a deferral to the paving, landscaping, or curbing requirements.

(d) A deferral shall be considered by the city as a part of an application which includes full site plans, drawn to scale, of both the immediate paving, landscaping and curbing improvements and the ultimate paving, landscaping, and curbing improvements.

(e) In all districts other than the A-O District, this deferral shall apply only to the required paving, curbing and landscaping which is applicable to the existing portion of the use and building. Paving, curbing and landscaping attributable to any expansion shall be installed at the time of the expansion.

(6) Maintenance. It shall be the joint and several responsibility of the lessee and owner of the principal use, uses, or building to maintain in a neat and adequate manner, the parking space, accessways striping, landscaping, and required fences.

(F) Standards applicable to residential uses.

(1) Location of required parking in residential areas.

(a) For single-family and two-family dwellings, off-street parking on a paved driveway within 15 feet of any street surface shall be allowed as long as it does not block any public sidewalk or pathway. For single-family and two-family dwellings, parking shall be located as found in Table 4-9 and Figure 4-11. Parking on any side of any detached accessory structure shall be prohibited except in such case that the detached accessory structure is the only garage for the property.

(b) In the case of townhouse dwellings, parking shall be prohibited in any portion of the front yard except designated driveways leading directly into a garage or one open paved space located on the side of a driveway away from the principal use. Said extra space shall be surfaced with concrete or bituminous material.

(c) Parking and/or storage of passenger vehicles, recreational vehicles and equipment, emergency vehicles, and small commercial vehicles shall conform to the requirements of Table 4-9 and Figure 4-11. For the purposes of Table 4-9 and Figure 4-11, emergency vehicles shall be treated as “small commercial vehicles”, but without limitations as to size.

(d) Under no circumstances shall large commercial vehicles be parked or stored in residential zoning districts, or on property that is used for residential purposes.

TABLE 4-9: YARD REQUIREMENTS FOR OFF-STREET PARKING AREAS & DRIVEWAYS IN RESIDENTIAL AREAS

Location

Diagram
Area
Key

Passenger Vehicles [1]

Recreational Vehicles [1]

Emergency Vehicles [1]

Small Construction Vehicles [1]

Other Notes

TABLE 4-9: YARD REQUIREMENTS FOR OFF-STREET PARKING AREAS & DRIVEWAYS IN RESIDENTIAL AREAS

Location

Diagram
Area
Key

Passenger Vehicles [1]

Recreational Vehicles [1]

Emergency Vehicles [1]

Small Construction Vehicles [1]

Other Notes

Driveway leading directly into a garage within the front yard of a lot

A

Any number

(paved)

One such vehicle

(paved)

One such vehicle

(paved)

Any number

(paved)

Parking space adjacent to the driveway within the front yard of a lot

B

One passenger or small commerci al vehicle (paved)

One such vehicle, if it is the only such vehicle within the front yard (surfaced)

One such vehicle (paved)

One passenger or small commercial vehicle (paved)

Other portions of the front yard

C

No

No

No

No

Side yard, adjacent to garage side of structure

D

Yes, within a space consisting of the 15 feet adjacent to the building (surfaced)

Yes, within a space consisting of the 15 feet adjacent to the building (unsurfaced)

Yes, within a space consisting of the 15 feet adjacent to the building

(surfaced)

Yes, within a space consisting of the 15 feet adjacent to the building

(surfaced)

Must maintain minimum 3 foot setback to side lot line in all cases

Side yard more than 15 feet from garage

E

No

No

No

No

Side yard on opposite side of house from garage

F

No

No

No

No

Side yard on corner lot facing a public street

G

Yes, within a space consisting of the 15 feet adjacent to the building (surfaced)

Yes, within a space consisting of the 15 feet adjacent to the building. (unsurfaced)

Yes, within a space consisting of the 15 feet adjacent to the building (surfaced)

Yes, within a space consisting of the 15 feet adjacent to the building (surfaced)

Must maintain minimum 6 foot setback to side lot line in all cases.

Rear yard

H

No

Yes (unsurfaced)

No

No

No current limit to number of such vehicles – must maintain a 3 foot setback to lot line

[1] See § 153.012 for definition.

Figure 4-11

(2) Vehicular use area design in residential areas.

(a) Curb cuts and access.

1. Single- family uses shall be limited to one curb cut access per property.

2. Curb cut access shall be at a minimum three feet from the side yard property line in residential districts.

3. For single and two-family uses, a driveway or other impervious surface leading to a detached accessory structure in the rear yard shall require authorization through conditional use permit, unless such driveway serves a structure in the rear yard that is the only garage for the residential use.

(b) Surfacing. Paving and surfacing requirements for parking and storage of passenger vehicles, emergency vehicles, recreational vehicles, and small commercial vehicles for single and two-family dwellings shall be as found in Table 4-9 and Figure 4-11.

(c) Residential district garage requirements. In all residential zoning districts, all detached single-family homes, two-family and duplex units shall include development of an attached or detached garage. The minimum size requirement for the garage floor shall be 450 sq. ft. with a maximum door

height of nine ft. and minimum garage door opening of 16 ft. with the following exceptions and/or deviations by district:

1. R-1 District. An attached garage of at least 550 square feet shall be constructed as part of any single-family home.

2. R-A District.

a. An attached garage of at least 700 square feet shall be constructed as part of any single-family home.

b. Garage frontage: From side building line to side building line of any single-family structure, no more than 40% of such building width shall consist of garage doors that face the street. Side or rear loaded garages are not subject to this regulation. An exception shall be made for garage doors that face the street, but are set back at least ten feet in back of the front building line of the principal use.

c. No portion of any garage space may be more than five feet closer to the street than the front building line of the principal single-family use.

3. R-2 District. An attached garage of at least 450 square feet shall be constructed as part of any single-family home.

4. T-N District.

a. A garage of at least 480 square feet, attached or detached, shall be constructed as a part of any single-family home.

b. Garage frontage: From side building line to side building line of any single-family structure, no more than 50% of such building width shall consist of garage doors that face the street. Side or rear loaded garages, or detached garages in the rear yard, are not subject to this regulation. An exception shall be made for garage doors that face the street, but are set back at least ten feet in back of the front building line of the principal use.

c. No portion of any garage space may be more than five feet closer to the street than the front building line of the principal single-family use.

(G) Standards applicable to commercial, industrial and civic/institutional uses.

(1) Location of required parking for commercial, industrial and civic/institutional uses.

(a) In business, industrial and institutional areas, no parking area may be located upon a public drainage and/or utility easement adjoining a

public street without an encroachment agreement approved by the Community Development Department.

(b) In the B-1 district, off-street parking shall not include semi-trailer trucks.

(2) Vehicular use area design applicable to commercial, industrial & civic/institutional uses.

(a) Access and curbing.

1. Curb cut access in industrial and commercial zoning districts may exceed 24 feet with the approval of the Community Development Department. Denial by the Community Development Department of curb cut access in excess of 24 feet may be appealed following the procedures outlined in § 153.028(H).

2. Curb cut access shall not be closer than six feet to any lot line as measured from the lot line to the face of the curb. An exception to the setback requirement shall be granted in business districts where adjoining business provide for private cross access between parking lots.

3. All off-street parking areas and driveways shall have a six-inch non-surmountable continuous concrete curb around the perimeter of the parking area and driveways. The Community Development Department may approve bituminous curbing as a temporary measure under the following conditions:

a. If the area is shown by adequate site plans and reasonable growth to be subject to a future expansion of the driveway and/or parking area.

b. The area is shown by adequate site plans to be able to control site traffic and circulation as recommended by the Community Development Department. The Community Development Department may approve movable curb stops as a temporary traffic control measure.

c. The area is shown by adequate drainage plans to be able to control drainage as recommended by the Community Development Department. The Community Development Department may approve bituminous curbing as a temporary drainage control measure.

(b) Parking setbacks for the CCD District.

1. From public street right-of-way: Six feet.

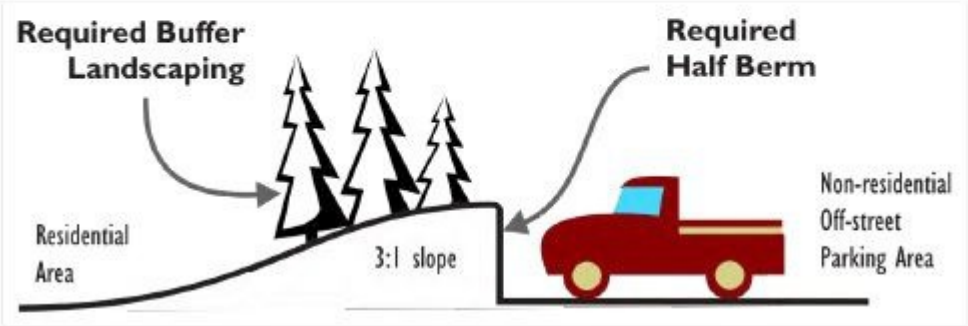
2. From private property: Six feet, except that parking lots may provide shared access driveways or spaces between adjoining private parking lots. In the CCD, such shared access driveways or spaces shall be

permitted, exempt from the requirement for a conditional use permit applicable in other zoning districts.

(c) Perimeter vehicular use buffer.

1. Open, non-residential off-street parking areas shall be designed to screen headlights from abutting residential districts through the use of a half-berm design. Said design shall be required in all instances where headlights are directed at surrounding or abutting residential properties. A half-berm is required in addition to any buffer yard landscaping requirements with a design - as illustrated in Figure 4-12.

Figure 4-12



2. In the event that drainage or other conditions do not permit a berm of this size and for parcels in the CCD district which abut residentially zoned property, a solid, maintenance free fence may be permitted for all or a portion of the retaining wall to the extent necessary to permit property drainage. Examples may include a two-foot retaining wall and berm, with a four foot tall fence section. This alternative may be allowed by conditional use permit. Any fence proposed in lieu of the required design must be 100% opaque and in character with the surrounding area.

(3) Joint facilities for commercial, industrial & civic/institutional uses. A conditional use permit for one or more businesses to provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the Planning Commission shall not recommend that such permit be granted nor the Council approve such a permit except when the following conditions are found to exist:

(a) Up to 50% of the parking facilities required for a theatre, bowling alley, dance hall, bar, or restaurant may be supplied by the off-street parking facilities provided by types of uses specified as a primarily daytime use in division (d) below.

(b) Up to 50% of the off-street parking facilities required for any use specified under division (d) below as primary daytime uses may be supplied by the parking facilities provided by the following nighttime or Sunday uses: Auditoriums incidental to a public or parochial school, churches, bowling alleys, dance halls, theatres, bars, or restaurants.

(c) Up to 80% of the parking facilities required by § 153.067 for a church or for an auditorium incidental to a public or parochial school may be supplied by off-street parking facilities provided by uses specified under division (d) below as primarily daytime uses.

(d) For the purpose of this section, the following uses are considered as primarily daytime uses: Banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing, wholesale, and similar uses.

(e) Conditions required for joint use:

1. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities with the following exception: For theatres located in the Original Plat of Monticello, theatre parking provided by another use shall be located within 500 feet of said theatre.

2. The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

3. A properly drawn legal instrument executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Administrator and recorded with the County Recorder, Wright County.

(4) Cross parking facilities for commercial, industrial and civic/institutional uses. Adjoining business properties may allow cross parking and/or access if authorized by a conditional use per the requirements of § 153.028(D) and subject the following conditions:

(a) The required island and landscaping requirements in § 153.060 are met.

(b) The vehicular use area meets the required setback at the perimeter of the parcels in question.

(c) The curb cut access locations to the parking lot(s) are approved by the city.

(d) A shared parking/access and maintenance agreement is provided by the parking owners and recorded against all subject properties.

(e) A properly drawn legal instrument executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Administrator and recorded with the County Recorder.

(Ord. 799, passed 2-27-2023)

§ 153.068 OFF-STREET LOADING SPACES.

(A) Purpose. The regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) Location.

(1) All required loading berths shall be off-street and located on the same lot as the building or use to be served.

(2) The location of required loading births shall be such that circulation occurs within the designated site or property and does not depend upon a public street or alley.

(3) All loading berth curb cuts shall be located at a minimum 50 feet from the intersection of two or more street rights-of-way. This distance shall be measured from the property line.

(4) No loading berth shall be located closer than 50 feet from a residential district unless within a structure.

(5) Loading berths shall not occupy the front yard setbacks.

(6) Loading berths located at the front or at the side of buildings on a corner lot shall only be permitted if the following conditions can be met:

(a) Loading berths shall not conflict with pedestrian movement.

(b) Loading berths shall not obstruct the view of the public right-of-way from off-street parking access.

(c) Loading berths shall comply with all other requirements of § 153.067.

(d) All screening requirements of § 153.060(I) are met.

(7) Each loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.

(C) Surfacing. All loading berths and accessways shall be improved with not less than six-inch class five base and two-inch bituminous surfacing to control the dust and drainage according to a plan submitted to and subject to the approval of the Community Development Department.

(D) Accessory use, parking and storage. Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles, or snow shall not be included as part of the space requirements to meet the off-street area.

(E) Screening. All loading areas shall be screened and landscaped in compliance with § 153.060(I), of this chapter.

(F) Size. Unless otherwise specified in these zoning regulations, the first loading berth shall be not less than 55 feet in length, and all loading berths shall be not less than 30 feet in length. All loading berths shall be not less than ten feet in width and 14 feet in height, exclusive of aisle and maneuvering space.

(G) Number of loading berths required. The number of required off-street loading berths shall be as follows:

(1) Manufacturing, fabrication, processing, warehousing, storing, retail sales, schools and hotels. For such a building 5,000 to 100,000 square feet of floor area, one loading 55 feet in length and one additional berth for each additional 100,000 square feet or fraction thereof, plus one berth 30 feet in length for each 35,000 square feet of floor area or fraction thereof.

(2) Auditorium, convention hall, exhibition hall, sports arena or stadium. Ten thousand to 100,000 square feet of floor area, one loading berth; for each additional 100,000 square feet of floor area or fraction thereof, one additional loading berth.

§ 153.069 GRADING, DRAINAGE, STORMWATER MANAGEMENT AND EROSION CONTROL.

(A) Purpose.

(1) Statutory authorization. This section is adopted pursuant to the authorization and policies contained in M.S. Chapters 103B and 462, as

they may be amended from time to time; Minn. Rules, Parts 6120.2500-6120.3900, Minn. Rules Chapters 8410, 8420 and 70510.0210.

(2) Findings. The City of Monticello finds that uncontrolled stormwater runoff and construction site erosion from land development and land disturbing activities can have significant adverse impacts upon local and regional water resources, diminishing the quality of public health, safety, public and private property and natural resources of the community.

(3) Purpose. The general purpose of this section is to establish regulatory requirements for land development and land disturbing activities aimed at minimizing the threats to public health, safety, public and private property and natural resources within the community resulting from construction site erosion and post-construction stormwater runoff.

(4) This chapter is intended to meet the current construction site erosion and sediment and waste control and post-construction stormwater management regulatory requirements for construction activity and small construction activity (NPDES Permit) as defined in 40 CFR pt. 122.26(b)(14)(x) and (b)(15), respectively.

(5) This chapter is intended to meet the minimal impact design standards (MIDS) developed under M.S. 2009, § 115.03, subdivision 5c, as it may be amended from time to time.

(B) Definitions. Definitions for the following terms can be found in § 153.012.

(1) Best management practices (BMPs).

(2) Contractor.

(3) Dewatering.

(4) Erosion.

(5) Erosion prevention.

(6) Final stabilization.

(7) Impervious surface.

(8) Land disturbing activity.

(9) Owner.

(10) Permanent cover.

(11) Sediment.

(12) Stabilized.

(13) Stormwater.

(14) Stormwater pollution prevention plan.

(15) Surface water or waters.

(16) Temporary erosion protection.

(C) Permits.

(1) The thresholds for required grading, drainage, stormwater management and erosion control permits along with the permit review process is outlined in § 153.028(M).

(2) The permittee(s) shall be responsible for obtaining required permits from other government agencies prior to conducting grading work (e.g. dewatering a site for development will require one or more permits from the MPCA).

(D) Grading, drainage, stormwater management, and erosion control plan requirements. Grading, drainage, stormwater management and erosion control plans are required for any activities that require a grading permit as defined in § 153.028(M). The plans shall contain the following information and be in conformance with the city's plan requirements and design guidelines ("design manual"):

(1) The name and address of the applicant, a legal description of the site, north point, date and scale of drawing and number of sheets;

(2) An existing site map: a map of existing site conditions showing the site and immediately adjacent areas, which shall include the following information:

(a) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two feet;

(b) A delineation of all surface waters located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;

(c) The location and dimensions of existing stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site delineating the direction and the rate the stormwater is conveyed from the site, identifying the receiving stream, river, public water, or wetland and setting forth those areas of the unaltered site where stormwater collects;

(d) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed which describes any remedial steps to be taken by the applicant to render the soils suitable;

(e) The location and type of vegetative cover on the site and clearly delineating any vegetation proposed for removal;

(f) One-hundred-year floodplain, flood fringes and floodways boundaries; and

(g) The location of any water body, and any biologically or archaeologically significant areas within one mile of the site that is identified as: (CGP Part I.B.6).

1. Impaired pursuant to section 303(d) of the Federal Clean Water Act (33 U.S.C. section 303(d)) where the identified pollutant(s) or stressor(s) are phosphorus (nutrient eutrophication biological indicators), turbidity, dissolved oxygen or aquatic biota (fish bioassessment, aquatic plant bioassessment and aquatic macroinvertebrate bioassessment), and with or without a U.S. Environmental Protection Agency (USEPA) approved Total Maximum Daily Load (TMDL) for any of these identified pollutant(s) or stressors(s) also meeting the specific impaired waters criteria of the Minnesota Pollution Control Agency's National Pollutant Discharge Elimination System (NPDES) construction general permit (Permit No: MN R10001), regarding construction-site erosion and sediment control;

2. An outstanding resource value waters as listed in Minn. Rules 7050.0180, subp. 3, 4, 5, 6, 6a and 6b;

3. A trout waters as listed in Minn. Rules 6264.0050, subp. 2 and 4;

4. A wetland defined in Minn. Rules 7050.0186 subd.1a.B;

5. Any lands where state or federally listed endangered or threatened species are known to occur, or properties listed in the National Register of Historic Places, including archaeological sites may be impacted.

(3) A site construction plan which shall include the following information:

(a) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;

(b) Locations and dimensions of all temporary soil or dirt stockpiles;

(c) Locations and dimensions of all erosion prevention measures and best management practices necessary to meet the requirements of this chapter;

(d) Schedule of anticipated start and completion dates of each land disturbing activity including the dates of installation of erosion prevention measures for each phase needed to meet the requirements of this chapter; and

(e) Provisions for maintenance of the erosion and sediment prevention measures prior to final stabilization.

(4) A plan of final site conditions, which shall include the following information:

(a) Finished grading shown at contours at the same interval as provided on the existing site map to clearly indicate the relationship of proposed changes to the site's existing topography and remaining features;

(b) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials that will be added to the site;

(c) A drainage plan of the developed site delineating in which direction and the rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect;

(d) The proposed size, alignments and intended use of any structures to be erected on the site;

(e) A clear delineation and tabulation of all impervious surfaces to be installed on the site, including a description of the surfacing material to be used;

(f) Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project;

(g) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures. Required specifications are referenced in the City of Monticello's Design Manual;

(h) Provisions for maintenance of erosion and sediment plan, specifically in boulevards, easements and other public areas, and estimates of the cost of maintenance;

(i) Provisions for regular permittee inspections of all control measures in accordance with the inspection schedule outlined on the approved grading, drainage, stormwater management and erosion control plan(s); and

(j) Modifications to the plan shall be processed and approved or disapproved in the same manner as a new application per the requirements of § 153.028(M).

(5) A copy of the applicant's Minnesota Pollution Control Agency's Permit for discharging stormwater from construction activity (MN R100001), if the area of disturbed land is equal to or greater than one acre or if project meets the definition of common plan of development that covers one acre or more. A stormwater pollution prevention plan must be prepared and must meet the NPDES requirements and conform to the SWPPP standards specified in the MPCA NPDES construction general permit (Permit No: MN R10001).

(E) Stormwater management. Plan required: The proposed provisions for stormwater runoff shall be documented in a stormwater management plan including a narrative, prepared by a Minnesota licensed engineer to stating how the proposed activity meets the requirements of the City of Monticello's Design Manual.

(1) Minimum standards for runoff water management plans. A runoff water management plan shall include the following items:

(a) A map containing a delineation of the subwatershed contributing runoff from off site, and proposed and existing subwatersheds on site. The delineation shall conform to the nomenclature of the water resources management plan and shall indicate any significant departures from the watershed delineation of the water resources management plan

(b) Delineation of existing on site "wetlands", as defined in the Wetland Conservation Act, lakes, watercourses, shoreland, and/or floodplain areas.

(c) For water bodies and channels, a listing of normal (runout) and calculated ten-year and 100-year elevations on site for both existing and proposed conditions.

(d) Stormwater runoff volumes and rates for existing and proposed conditions.

(e) All hydrologic and hydraulic computations completed to design the proposed stormwater management facilities. Reservoir routing procedures and critical duration runoff events shall be used for design of water storage areas and outlets.

(f) A checklist of best management practices to demonstrate that, to the maximum extent practical, the plan has incorporated the structural and nonstructural best management practices described in the book "Protecting Water Quality In Urban Areas", published by the Minnesota Pollution Control Agency or the applicable publications.

(g) A grading plan identifying stormwater overflow routes along streets or drainage easements designed to protect structures from damage due to:

1. Storms in excess of the design storm; or

2. Clogging, collapse or other failure of the primary drainage facilities.

(h) An assessment of the potential for construction or contribution to regional detention basins, as opposed to the construction of on-site stormwater basins. The water resources management plan identifies potential regional stormwater basins for control of rate and nutrient loading. The following criteria shall be used to determine whether on site storage is required within the subdivision:

1. If the stormwater management plan indicates construction or enlargement of a storage site or water quality storage in a wetland or other water body, the facility or its equivalent shall be constructed to meet the goals of the water resources management plan.

2. If a proposed subdivision is indirectly tributary to a water body and the intervening regional detention storage is inadequate, in the opinion of city staff, to meet the water quality goals for downstream water bodies as described in the water resources management plan, additional on-site stormwater basin construction will be required to meet these goals.

3. If a proposed subdivision will increase rates of runoff and where downstream stormwater storage or conveyance facilities are inadequate to protect downstream riparian owners from effects of these increases, then on site stormwater storage must be constructed to restrict stormwater rates to the predevelopment rates.

(2) Where on site water quality detention basins are required, the permittee(s) will have to comply with the design and sizing requirements determined by the City of Monticello’s Design Manual.

(3) Maintenance of private stormwater management facilities.

(a) No private stormwater management facilities may be approved unless a maintenance plan is provided and is consistent with the City’s Design Manual. All such facilities shall be inspected annually, with reports submitted to the city, and maintained in proper condition consistent with the performance standards for which they were originally designed.

(b) Owners of private stormwater management facilities shall provide an agreement to the city describing responsibility for the long-term operation and maintenance of the facilities.

(4) Public stormwater management facilities – easements. The applicant shall establish, in a form acceptable to the city, temporary and perpetual easements, or dedicated outlots, for ponding, flowage, and drainage purposes over hydrologic features such as water bodies and stormwater basins. The easements or outlots shall include the right of reasonable access for inspection, monitoring, maintenance, and enforcement purposes.

(F) Construction requirements.

(1) Construction specifications.

(a) Site dewatering and basin draining: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, swirl concentrators or other appropriate controls as appropriate. Water shall not be discharged in a manner that causes erosion, scour, sedimentation or flooding of the site, receiving channels or wetlands.

(b) Grading, erosion and sediment controls as specified in the City's Design Manual.

(c) Tracking: All roads, access drives and parking areas must utilize a temporary tracking pad and must be of sufficient width and length to prevent sediment from being tracked onto public or private roadways and/or the stormwater conveyance system. Temporary tracking pads must be installed and maintained in all locations on the site where vehicles enter and exit.

(d) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all provisions of this chapter. Clearing techniques that retain natural vegetation and drainage patterns shall be recommended as necessary and used to the satisfaction of the Community Development Department.

(e) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

(f) Building products that have the potential to leach pollutants must be under cover (e.g., plastic sheeting or temporary roofs) to prevent the discharge of pollutants or protected by a similarly effective means designed to minimize contact with stormwater.

(g) Pesticides, herbicides, insecticides, fertilizers, treatment chemicals, and landscape materials must be under cover (e.g., plastic sheeting or temporary roofs) to prevent the discharge of pollutants or protected by a similarly effective means designed to minimize contact with stormwater.

(h) Fueling and maintenance of equipment or vehicles; spill prevention and response: The permittee(s) shall take reasonable steps to prevent the discharge of spilled or leaked chemicals, including fuel, from any area where chemicals or fuel will be loaded or unloaded including the use of drip pans or absorbents unless infeasible. The permittee(s) must conduct fueling in a contained area unless infeasible. The permittee(s) must ensure adequate supplies are available at all times to clean up discharged materials and that an appropriate disposal method is available for recovered spill materials. The permittee(s) must report and clean up spills immediately as required by M.S. § 115.061, as it may be amended from time to time, using dry cleanup measures where possible.

(i) Phasing may be required on all sites based on site specifics, with the size of each phase to be established at plan review and as approved by the Community Development Department.

(j) Silt fence or equivalent sediment control measures to be used must conform to the city's standards.

(k) Silt fences or equivalent sediment control measures must be installed along the downslope and sideslope perimeters and up-gradient of any buffer zones from the approved grading and construction limits before any up-gradient land-disturbing activities begin. Perimeter controls should be located to maintain a buffer of existing vegetation during construction, as site conditions allow, along the edges of any curbs, wetlands, channels or other water resources that could receive sediment from the site. These controls shall remain in place until final stabilization has been established.

(l) Sufficient silt fence or equivalent sediment control measures are required to hold all sheet flow runoff generated at an individual site to minimize sediment from entering surface waters, including curb and gutter systems and storm sewer systems. Additional measures such as check dams, diversion, temporary or permanent sedimentation basins and drainage ditches are required to handle channelized flow. Additional upgradient sediment control practices or redundant BMPs shall be installed if down gradient sediment controls are overloaded (based on frequent failure or excessive maintenance requirement) (CGP Part IV.C.1.a-b).

(m) All storm drain inlets must be protected during construction until all sources with potential for discharging to the inlet have been stabilized (CGP Part IV.C.4).

(n) Soil stabilization shall be initiated immediately to limit soil erosion but in no case completed later than 14 days after construction activity in that portion of the site has temporarily or permanently ceased, and seven days if discharge points are located within one-mile of an impaired or special waterbody.

(o) Final stabilization on all sites shall become established within six months. The City of Monticello may require the site to be reseeded or a non-vegetative option employed.

(p) Seeding shall be in accordance with the city's current seeding specification as detailed in the Design Manual. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention.

(q) Special techniques that meet the design criteria outlined in Design Manual shall be in place on steep slopes or in drainage ways to ensure stabilization.

(r) Soil stockpiles which shall be inactive for a period of seven or more days shall include provisions for perimeter sediment controls. The placement of soil stockpiles adjacent to public rights-of-way or waterways is prohibited.

(s) The entire site must be stabilized to a minimum of 70% coverage, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.

(t) Techniques shall be employed to prevent the blowing of dust or sediment from the site.

(u) Techniques that divert upland runoff past disturbed slopes shall be employed.

(v) For sites that have more than ten acres of disturbed soil that drains to a common location, one or more temporary sediment basins shall be constructed. Use of temporary basins is encouraged when construction projects will impact steep slopes or when highly erodible soils are present. The basin shall provide treatment to the runoff before it leaves the construction site or enters surface waters. The temporary sediment basins must be designed and constructed as follows:

1. Provide live storage for a calculated volume of runoff from a two-year, 24-hour storm from each acre drained to the basin. All basins shall provide at least 1,800 cubic feet of live storage from each acre drained or more.

2. For basins where the calculation from the previous requirement has not been performed, a temporary sediment basin providing 3,600 cubic feet of live storage from each acre drained to the basin shall be provided.

3. The outlet structure must be designed to withdraw water from the surface in order to minimize the discharge of pollutants.

4. The basin outlet shall be designed to prevent short-circuiting and the discharge of floating debris.

5. Ensure the basin can be completely drawn down to conduct maintenance activities.

6. Include energy dissipation on the outlet of the basin and a stabilized emergency overflow to prevent failure of pond integrity.

7. Be located outside of surface waters or any buffer zone, and be designed to avoid draining water from wetlands unless appropriate approval from the U.S. Army Corps of Engineers and the Minnesota Department of Natural Resources is obtained.

8. If installation of a temporary sediment basin is infeasible, equivalent sediment controls such as smaller sediment basins, and/or sediment traps, silt fences, vegetative buffer strips, or any appropriate combination of measures are required for all down-slope boundaries of the construction area and for side-slope boundaries where appropriate. Determination of infeasibility shall be documented in the erosion and sediment control plan.

(2) Waterway and watercourse protection requirements. The permittee(s) shall implement the following waterway and watercourse measures on the site:

(a) A temporary stream crossing installed and approved by the local government unit and regulating agency if a wet watercourse will be crossed regularly during construction.

(b) Stabilization of the watercourse channel before, during, and within 24 hours after any in-channel work.

(c) The normal wetted perimeter of any temporary or permanent drainage ditch or swale that drains water from the site, or diverts water around a site must be stabilized within 24 hours of connecting to a surface water and within 200 feet of the water’s edge of a public waters that drains to waters where the Minnesota Department of Natural Resources has promulgated “work in water restrictions” during specified fish spawning time frames (CGP Part IV.A.2).

(d) Portions of the ditch that are under construction must be stabilized within 24 hours after the construction activity in that portion has ceased. The normal wetted perimeter is defined as the area that is in contact with water during annual flow events.

(e) All on-site stormwater conveyance channels designed according to the criteria outlined in the plan requirements and design guidelines.

(f) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

(3) Pollution prevention management measures. The permittee(s) shall implement the following pollution prevention management measures on the site:

(a) Solid waste: Collected sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, construction and demolition debris and other wastes must be disposed of properly and must comply with MPCA disposal requirements.

(b) Hazardous materials: Oil, gasoline, paint and any hazardous substances must be properly stored, including secondary containment, to prevent spills, leaks or other discharge. Restricted access to storage areas must be provided to prevent vandalism. Storage and disposal of hazardous waste must be in compliance with MPCA regulations.

(c) External washing of trucks and other construction vehicles must be limited to a defined area of the site. Runoff must be contained and waste properly disposed of. No engine degreasing is allowed on site.

(d) Portable toilets must be positioned so that they are secure and will not be tipped or knocked over. Sanitary waste must be disposed of properly in accordance with Minn. Rules Ch. 7041.

(e) Concrete and other washout waste must have effective containment for all liquid and solid wastes generated by these operations related to the construction activity. The liquid and solid washout wastes must not contact the ground outside a proper containment area. Waste must be disposed of properly and in compliance with MPCA rules, and a sign must be installed adjacent to each washout facility.

(4) Special and impaired waters. Additional BMPs together with enhanced runoff controls are required for discharge from a site to special and impaired water as defined by Appendix A of the Minnesota Pollution Control Agency General Stormwater Permit for Construction Activity.

(G) Inspection.

(1) Notification. The Erosion Control Inspector shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved.

(2) Procedure. The city shall inspect all permit sites once per week and within 24 hours after a rain event greater than one-half inch. The city shall also require inspections at other development benchmarks as follows and as applicable. Inspections must be continued until final stabilization has occurred. To obtain inspections, the permittee shall notify the City of Monticello at least one working day before the following:

(a) Installation of sediment and erosion control measures;

(b) Start of construction or site development;

(c) Close of the construction season;

(d) Completion of final stabilization/landscaping;

(e) Removal of erosion control measures;

(f) Final project compliance and acceptance close-out.

(3) Material requirements. Seed tags shall be submitted to the Erosion Control Inspector for approval prior to commencing work. Proof of application rates shall be provided.

(4) Permittee inspection. The permittee or his/her agent shall also make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved grading, drainage and erosion control plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City of Monticello at the time interval specified in the approved permit. The records of each inspection and maintenance activity shall include the following information:

(a) Date and time of inspection;

(b) Name(s) of persons conducting the inspection;

(c) Findings of inspections, including recommendations for corrective actions;

(d) Corrective actions taken, including the dates, times and the name of the party completing the corrective action;

(e) Date and the amount of rainfall events that are greater than one-half inch in a 24-hour period; and

(f) Documentation of any changes made to the Stormwater Pollution Prevention Plan.

(5) Authorization. A member of the Community Development Department shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under § 153.068(E)(4).

(H) Site maintenance.

(1) Responsibilities.

(a) Within 24 hours, the permittee shall clean dirt and debris from streets that has resulted from construction work by the developer, home builders, subcontractors, their agents or assigns. Prior to any construction in the plat, the developer shall provide the Community Development Department with a schedule for erosion and sediment control inspection, street cleaning, and street sweeping.

(b) All silt fences and biorolls must be repaired, replaced or supplemented when they become nonfunctional or the sediment reached one-half of the height of the fence or bioroll. Repairs shall be made within 24 hours of discovery or as soon as field conditions allow access.

(c) Temporary and permanent sedimentation basins must be drained and the sediment must be removed when the depth of the sediment collected in the basin reached one-half the storage volume. Drainage and removal must be completed within 72 hours of discovery or as soon as final conditions allow access.

(d) The applicant shall remove all deltas and sediment deposited in the surface waters, including drainage ways, catch basins, and other drainage systems and must restabilize the areas where sediment removal results in exposed soil. The removal and stabilization must take place within seven days of discovery unless precluded by legal, regulatory or physical access constraints. In the event of an access constraint, the applicant shall use all reasonable efforts to obtain access. If the access is precluded, removal and stabilization must take place within seven calendar days of obtaining access. The applicant is responsible for contacting all local, regional, state and federal authorities and obtaining any required permits prior to conducting any work.

(e) No development, utility or street construction will be allowed and no building permits will be issued unless the development is in full compliance with the requirements of this chapter.

(I) Final stabilization. The permittee(s) must ensure final stabilization of the site after the completion of construction activities and prior to the termination of the permit. Final stabilization is not complete until all requirement in accordance to the definition in division (B) are complete that are intended to prevent discharge of pollutants associated with stormwater discharges from the project.

(J) Certification.

(1) Approved grading, drainage, stormwater management, and erosion control plan.

(a) Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Community Development Department, as applicable, shall be maintained at the site during the progress of the work.

(b) The stormwater pollution prevention plan (SWPPP) must:

1. Ensure the SWPPP is prepared by an individual trained in the design of construction SWPPPs in accordance with the MPCA NPDES construction general permit training requirements (CGP Part III.A.3);

2. Ensure at least one individual is present or available to the project site within 72 hours that is trained in the job duties for construction site management to inspect, oversee implementation of, revise, and amend the SWPPP (CGP Part III.F.b);

3. Ensure at least one individual is present or available to the project site within 72 hours that is trained in the job duties for construction installation to perform or supervise the installation, maintenance and repair of Best Management Practices (BMPs) (CGP Part III.F.c);

4. Document the name(s) of the trained personnel to design the construction SWPPP, the construction site manager and the construction installer. Documentation shall include the date of training, name of instructor(s), name of entity providing the training, content covered and hours of training attended (CGP Part III.A.3).

(2) As-built grading plan and development plan. Within 30 days after completion of site development as per the approved grading, drainage and erosion plan, and prior to the approval of individual building permits, the developer shall provide the city with an as-built grading plan and development plan as defined in the City of Monticello Plan Requirements and Design Guidelines.

(3) Procedure. The city will withhold issuance of building permits until the approved certified as-built grading plan and as-built development plan are on file with the city, all securities as required by this chapter are received, conservation easement posts are installed, and all erosion control measures are in place as determined by the Community Development Department.

(4) Removal of erosion control measures. The above specified requirements will be authorized for removal upon the sodding of the rear yards, completion of punch list items involving ponds and slopes, final stabilization, completion of proper turf establishment and placement of the proper conservation easement posts and signs as specified. Inspection is required after the removal of erosion control measures to verify proper restoration. Please refer to City of Monticello’s Design Manual for specifications.

(5) Notice of termination (NOT). The applicant must ensure final stabilization of the project. The applicant must submit a NOT within 30 days of final stabilization being achieved, or another party assuming control on all areas of the project that have not achieved final stabilization.

(K) Enforcement.

(1) Notice of violation. If the grading permittee fails to meet or maintain sediment and erosion control measures per the approved grading, drainage, stormwater management, and erosion control plan, the city shall issue a notice of violation. The notice of violation shall detail the default and prescribe a remedy and required schedule for compliance.

(2) Lapse and order for work.

(a) If the grading permittee fails to meet or maintain sediment and erosion control measures per the approved grading, drainage, stormwater management and erosion control plan, the city may, in its discretion, perform the work or contract to have the work completed and draw down on the security to pay any costs.

(b) The city will endeavor to notify the developer in advance of any proposed action, but failure of the city to do so will not affect the developer's and city's rights or obligations hereunder.

(3) Stop work order/revocation of grading permit. In the event that any person holding a grading permit pursuant to this chapter violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of Monticello may suspend or revoke the grading permit through the issuance of a stop work order or the revocation of the grading or building permit.

(4) Violation and penalties.

(a) No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted, shall constitute a separate offense.

(b) Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine as specified by the city ordinance per the fee schedule for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration.

(Ord. 799, passed 2-27-2023)

§ 153.070 BUILDING MATERIALS.

(A) Purpose. The purpose of these regulations is to enhance the quality and longevity of buildings in all zoning districts of the city, and to protect citizen investments in property value by ensuring complementary building style, construction, and appearance.

(B) General requirements.

(1) Consistency required. In all districts, all buildings shall be finished on all sides with consistent architectural quality, materials, and design.

(2) New materials. In recognition of the ever-changing marketplace for new finishing materials, the Community Development Department may authorize the use of materials not listed herein if it is determined that such a material is substantially similar or superior to one or more of the approved building materials.

(C) Residential district requirements.

(1) All residence districts. No metal siding shall be permitted wider than 12 inches or without a one-half inch or more overlap and relief.

(2) R-1 and R-2 Districts. A minimum of 15% of the front building façade of any structure in the R-1 or R-2 Districts, less the square footage area of windows and garage doors, shall be covered with brick or stone. Any attached or major detached accessory building that can be seen from the street shall meet this same standard when consistent with the principal structure. Structures with front facades covered by at least 70% stucco or real wood may reduce the brick or stone coverage to 5%. The Planning Commission may approve optional facade treatments prior to building permit through site plan review when additional architectural detailing so warrants. Such detailing may include usable front porches, extraordinary roof pitch or other features.

(3) R-A and T-N Districts. A minimum of 20% of the front building façade of any structure in the R-A or T-N zoning district, less the square footage area of windows and garage doors, shall be covered with brick or stone. Any attached or major detached accessory building that can be seen from the street shall meet this same standard when consistent with the principal structure. Structures with front facades covered by at least 70% stucco or real wood may reduce the brick or stone coverage to 10%.

(4) R-3 District and other districts with multiple-family housing. The R-3 and R-4 District and other districts with multiple-family housing shall be subject to building material standards as follows:

(a) All building walls facing a public street shall be covered with stone, brick, cultured masonry simulating brick or stone, or other enhanced

materials to an extent not less than 20% of the exposed wall silhouette area; and

(b) Multiple-family structures of 13 or more units shall, when using lap horizontal siding, be constructed of heavy gauge steel or cement-board, with no use of vinyl or aluminum permitted. Natural wood or species that is resistant to decay may be permitted.

(5) Roofing materials. Roofing materials in residential districts, including for principal and accessory buildings, shall consist of shingles made of asphalt, fiberglass, durable rot-resistant wood (such as cedar), stone (such as slate) or architectural metal (including steel and copper). Heavy gauge steel or copper may be used for standing-seam roofing. Steel may be used only when designed to resemble traditional residential architectural roofing materials.

(D) Business district requirements. In all Business Zoning Districts (see table 3-1), the following building materials standards shall apply.

(1) No galvanized or unfinished steel, galvalum, or unfinished aluminum buildings, except those specifically designed to have a corrosive designed finish such as“corten” steel, shall be permitted in the districts listed herein.

(2) Buildings in these zoning districts shall maintain a high standard of architectural and aesthetic compatibility with conforming surrounding properties to ensure that they will not adversely impact the property values of the abutting properties and shall have a positive impact on the public health, safety, and general welfare, insofar as practicable.

(3) Exterior building finishes in the districts subject to this section shall consist of materials compatible in grade and quality to the following:

(a) Brick.

(b) Natural stone.

(c) Decorative rock face or concrete block.

(d) Cast-in-place concrete or pre-cast concrete panels.

(e) Wood, provided that the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood, or cypress.

(f) Glass.

(g) Exterior insulated finish systems, where said system is manufactured to replicate the look of one of the approved building materials in this section.

(h) Stucco.

(4) Metal exterior finishes shall be permitted only where coordinated into the overall architectural design of the structure, such as in window and door frames, mansard roofs or parapets, and other similar features, and in no case shall constitute more than 15% of the total exterior finish of the building.

(5) Metal roofing. Metal shall be an allowed roofing material in the “B”, Business Districts, provided such material is designed to resemble traditional commercial architecture and/or is designed to complement the architectural design of the building.

(6) Building materials and design for the CCD District. All buildings within the CCD shall meet the materials and design standards of the Comprehensive Plan as defined by the Downtown Monticello Small Area Plan Amendment, the requirements of the CCD District, as well as the standards in § 153.070 for Business District requirements. In the case of a conflict between these standards, the stricter of the standards shall be applied.

(E) Industrial requirements.

(1) In the Industrial and Business Campus District (IBC), the following building materials and standards shall apply:

(a) Buildings shall maintain a high standard of architectural and aesthetic compatibility with conforming surrounding properties to ensure that they will not adversely impact the property values of the abutting properties and shall have a positive impact on the public health, safety, and general welfare, insofar as practicable.

(b) Exterior building finishes shall not consist of galvanized or unfinished steel, or unfinished aluminum.

(c) Exterior building finishes shall consist of materials compatible in grade and quality to the following:

1. Brick;

2. Natural stone;

3. Decorative rock face block or burnished block;

4. Wood, provided that the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood, or cypress;

5. Glass;

6. Stucco or substantially similar finish product;

7. Exterior insulated finish systems, where said system is manufactured to replicate the look of one of the approved building materials in this section;

8. Cast in place concrete or pre-cast concrete panels.

(d) Metal exterior finishes shall be permitted only where coordinated into the overall architectural design of the structure, such as in window and door frames, mansard roofs or parapets, and other similar features, and in no case shall constitute more than 15% of the total exterior finish of the building.

(e) Any exterior wall adjacent to a public street must have a higher level of aesthetics. This could be accomplished by architectural design features. increased use of stone and/or brick across 15% of the facade area, combination of glass and architectural metals, or a wall plane articulation across 15% of the facade area. Such articulation must extend at least five feet from the primary building line of the principal building structure.

(2) In the Light Industrial District (I-1), the following building material standards shall apply:

(a) Exterior building finishes shall not consist of galvanized or unfinished steel, or unfinished aluminum.

(b) Any exterior wall adjacent to a public street must have a higher level of aesthetics. This could be accomplished by architectural design features, increased use of stone and/or brick across 25% of the façade area, combination of glass and architectural metals, or a wall plane articulation across 25% of the façade area. Such articulation must extend at least five feet from the primary building line of the principal building structure.

(c) Exterior building finishes shall consist of materials compatible in grade and quality to the following:

1. Brick;

2. Natural stone;

3. Decorative rock face block or burnished block;

4. Glass;

5. Stucco or substantially similar finish product;

6. Exterior insulated finish systems. where said system is manufactured to replicate the look of one of the approved building materials in this section;

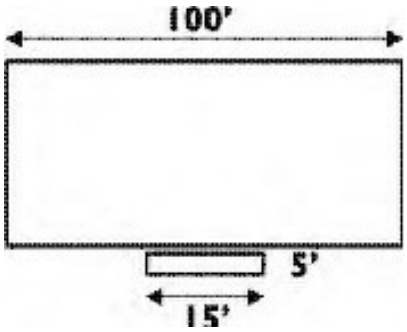
7. Cast in place concrete or pre-cast concrete panels;

8. Textured finishes on metal panels to simulate stucco or other similar treatments;

9. Commercial-grade siding made of cement board. composition board, or other durable material. not including vinyl.

(3) In the Heavy Industrial (I-2) districts, the following building material standards shall apply:

(a) Exterior building finishes shall not consist of galvanized or unfinished steel, or unfinished aluminum.



(b) Any exterior wall adjacent to a public street must have a higher level of aesthetics. This could be accomplished by architectural design features, increased use of stone and/or brick across 15% of the façade area, combination of glass and architectural metals, or a wall plane articulation across 15% of the façade area. Such articulation must extend at least five feet from the primary building line of the principal building structure.

(c) Exterior building finishes shall consist of materials compatible in grade and quality to the following:

1. Brick;

2. Natural stone;

3. Decorative rock face block or burnished block;

4. Glass;

5. Stucco or substantially similar finish product;

6. Exterior Insulated Finish systems. where said system is manufactured to replicate the look of one of the approved building materials in this section;

7. Cast n place concrete or pre-cast concrete panels;

8. Textured finishes on metal panels to simulate stucco or other similar treatments;

9. Commercial-grade siding made of cement board, composition board, or other durable material, not including vinyl.

(F) Institutional requirements. All institutional uses shall adhere to the building materials requirements spelled out for commercial districts in § 153.070(D) above.

(Ord. 791, passed 11-14-2022; Ord. 799, passed 2-27-2023)

§ 153.071 WIND ENERGY CONVERSION SYSTEMS (WECS).

(A) Purpose. The purpose of this section is to regulate the installation and operation of Wind Energy Conversion Systems (WECS) within the City of Monticello not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act (M.S. Chapter 216E, as it may be amended from time to time).

(B) WECS Requirements.

(1) General standards.

(a) Number per lot. No more than one WECS per lot shall be permitted.

(b) Height and setbacks. In all zoning districts, the setback of any WECS or associated structures shall comply with the minimum yard requirements for principal structures within the district in which the WECS is to be located or the distance of 1.1 times the total height, whichever is greater.

(c) Tower configuration.

1. All wind turbines which are part of a commercial WECS shall be installed with a tubular, monopole type tower;

2. All non-commercial WECS shall be installed with monopole or lattice tower type;

3. No guyed towers shall be permitted.

(d) Color and finish.

1. All wind turbines and towers that are part of a commercial WECS shall be white, grey or another non-obtrusive color.

2. Finishes shall be matte or non-reflective.

3. Blades may be black in order to facilitate deicing.

(e) Lighting.

1. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration (FAA) permits and regulations.

2. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds; red pulsating incandescent lights should be avoided.

(f) Other signage. All signage on site shall comply with City Code. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle (compartment containing the electrical generator) of the WECS.

(g) Feeder lines. All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.

(h) Shadow flicker. Shadow flicker may not exceed 30 hours per year and shall not fall more than ten feet from an existing residential property.

(i) Waste disposal. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

(j) Discontinuation and decommissioning.

1. A WECS shall be considered a discontinued use after 45 days without energy production, unless a plan is developed and submitted to the City of Monticello outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be completely removed within 90 days of the discontinuation of use.

2. Each commercial WECS shall have a decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. A security or bond in an amount sufficient to cover complete decommissioning process shall be required as a condition of the conditional use permit.

(k) Orderly development. Upon issuance of a conditional use permit, all commercial WECS shall notify the appropriate state agencies as may be required by state statute (e.g. Department of Commerce, Public Utilities Commission, Environmental Quality Board).

(2) Safety design standards.

(a) Engineering certification. For all WECS, the manufacture's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

(b) Clearance. Rotor blades or airfoils must maintain at least 12 feet of clearance between their lowest point and the ground.

(c) Warnings. For all commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable location as determined by the city.

(d) Unauthorized climbing. The WECS shall be guarded against unauthorized climbing. The first 12 feet of the tower shall be non-climbable by design or be enclosed by a six-foot-high, non-climbable fence with a secured access.

(3) WECS performance standards.

(a) Noise. All WECS shall comply with Minn. Rules 7030 governing noise and § 153.091(A)(2)(f).

(b) Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electric Safety Code and other applicable standards.

(c) Federal Aviation Administration. All WECS shall comply with FAA standards and permits.

(d) Minnesota State Building Code. All WECS shall comply with the International Building Code as adopted by the State of Minnesota Building Code.

(e) Interference.

1. The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS.

2. The applicant shall notify all communication tower operators within two miles of the proposed WECS location upon application to the city for a WECS permit.

3. No WECS shall be constructed so as to interfere with any governmental unit microwave transmissions.

(f) Right of entrance. Through acceptance of a conditional use permit for a WECS, the owner/operator grants permission to the city to enter the

property to remove the WECS pursuant to the terms of the conditional use permit and to assure compliance with other conditions set forth in the permit.

(g) Avoidance and mitigation of damages to infrastructure and utilities.

1. Roads.

a. Applicants shall identify all county, city or township roads to be used for the purpose of transporting commercial WECS, substation parts, concrete, and/or equipment for construction, operation or maintenance of the commercial WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

b. Applicants shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges to preconstruction conditions.

2. Drainage system. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

3. Public and private utilities. The owner of the WECS is responsible for any damage to any below grade public or private utilities, due to the installation, operation, decommissioning, or action otherwise resulting for any WECS.

(C) Required permits. No person, firm or corporation shall erect, construct in place, re-erect, replace or make structural repairs to any tower without making application for and receiving an approved conditional use or site plan approval and building permit, when applicable. In all cases, review by the Community Development Department for all required permits will be necessary. Site plans and conditional use permits shall be applied for and reviewed under the applicable procedures established in §§ 153.025 through 153.028.

(D) WECS permit and site plan application requirements.

(1) All applications for a WECS conditional use and/or site plan review shall provide the following to be considered complete:

(a) The names of project applicant;

(b) The name of the property owner;

(c) The legal description AND address of the project;

(d) A description of the project including:

1. Number of proposed units;

2. Type of units proposed for construction;

3. Name plate generating capacity of each unit;

4. Rotor diameter(s);

5. Tower height(s) determined by the distance from the surrounding grade to the rotor hub or top of the tower, whichever is higher; and

6. Total height of all wind turbines and means of interconnecting with the electrical grid.

(e) Property survey, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The survey shall include distances and be drawn to a measurable scale;

(f) Evidence that the applicant can obtain and maintain adequate liability insurance for the WECS and subject property;

(g) Engineer’s Minnesota State certification and project design specifications;

(h) Documentation of land ownership or legal control of the property.

(2) Additional submittal requirements for commercial WECS only:

(a) The latitude and longitude of individual wind turbines;

(b) A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten rotor diameters of the proposed WECS;

(c) Location of wetlands, scenic, and natural areas including bluffs within 1,320 feet of the proposed WECS;

(d) FAA permit application;

(e) Location of all known communications towers within two miles of the proposed WECS;

(f) Proof that the WECS will not interfere with emergency or other microwave transmission;

(g) A noise study, prepared by a qualified professional, that demonstrate that except for intermittent episodes, the WECS shall not emit noise in excess of the limits established in Minn. Rules 7030 governing noise and § 153.091(A)(2)(f) of this chapter, as applicable;

(h) A shadow flicker model that demonstrates that shadow flicker shall not fall on, or in, any existing residential structure. Shadow flicker

expected to fall on a roadway or a portion of a residentially zoned property may be acceptable if the flicker does not exceed 30 hours per year; and the flicker will fall more than 100 feet from an existing residence; or the traffic volumes are less than 500 vehicles (ADT). The shadow flicker model shall:

1. Map and describe with a 1,000-foot radius of the proposed dispersed wind energy system the topography, existing residences and location of their windows, location of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed;

2. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, calculate the total number of hours per year of flicker at all locations;

3. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in siting of the WECS, a change in the operation of the WECS, or grading or landscaping mitigation measures.

(i) Decommissioning plan; and

(j) Description of potential impacts on nearby WECS and wind resources on adjacent properties.

§ 153.072 TELECOMMUNICATION TOWERS AND ANTENNAS.

(A) Purpose. The City of Monticello acknowledges the legal right of telecommunication providers to locate within the city, and the need to accommodate the communication needs of residents and businesses. However, the city wishes to implement its legal authority to adopt zoning requirements which are nondiscriminatory, not intended to prohibit telecommunications service, and not based on health effects of radio frequency emissions. In order to establish uniform, nondiscriminatory regulations that protect the public health, safety and general welfare of the city, these regulations are intended to:

(1) Minimize adverse visual effects of towers through careful design, landscaping, and siting standards;

(2) Avoid potential damage to adjacent properties from tower failure and weather related occurrences through structural standards and setback requirements;

(3) Maximize the use of existing and approved towers and buildings to accommodate new telecommunication antennas in order to reduce the number of towers needed to serve the community;

(4) Utilize business, industrial and public land, buildings and structures for telecommunications whenever possible and/or appropriate;

(5) Provide for the appropriate location and development of towers and antennas to accommodate the communication needs of the residents and businesses within the City of Monticello.

(B) Private amateur radio. Private amateur radio, for the purposes of this chapter, shall mean equipment, including antennae, antennae support structures, and other related material, necessary to conduct ham and short wave radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

(1) One antenna and associated antenna support structure shall be a permitted accessory use in all zoning districts, provided that:

(a) The owner/operator has current versions of all required licenses to operate said equipment.

(b) All equipment shall be installed in accordance with manufacturer's specifications, and pursuant to valid building and electrical permits, and any other applicable permit requirements.

(c) Subject to CUP provisions in § 153.072(B)(1)(d) of this chapter, no antenna or antenna support structure shall exceed the allowable height limits of the applicable zoning district in which it is located, plus 20 feet.

(d) By conditional use permit, the height provisions of § 153.072(B)(1)(c) may be exceeded, up to a maximum height of 70 feet, upon a showing that the additional height is necessary for proper function of the equipment due to interference from terrain, vegetation, or adjoining buildings. Any such additional height shall require a setback from all property lines of no less than one-half-foot for every one foot above the limits established in § 153.072(B)(1)(c).

(e) Except as allowed by § 153.072(B)(1)(f), no freestanding antenna or antenna support structure shall be located within any required yard other than the rear yard of any parcel.

(f) An antenna and its support structure may be located within the buildable area of a lot if mounted directly to the principal structure.

(2) Any private amateur radio antenna or antenna support structure which is no longer in use, or for which the owner of property no longer has

valid licenses, or which has fallen into disrepair to the extent that it can no longer serve its intended purpose, or which constitutes a hazard or nuisance, shall be considered a violation of the zoning ordinance, and shall be removed.

(C) Private receiving antennae and antenna support structures. Private receiving antennae and antenna support structures, for the purposes of this chapter, shall mean television and other electronic reception antennae for private use.

(1) Private antennae less than three meters in width and related support structures shall be a permitted accessory use in all zoning districts, provided that:

(a) No antenna or antenna support structure shall exceed the allowable height limits of the applicable zoning district in which it is located, plus 20 feet.

(b) No freestanding antenna or antenna support structure shall be located within any required yard other than the rear yard of any parcel.

(c) An antenna and its support structure may be located within the buildable area of a lot if mounted directly to the principal structure.

(2) Any private antenna or antenna support structure which is no longer in use, or which has fallen into disrepair to the extent that it can no longer serve its intended purpose, or which constitutes a hazard or nuisance, shall be considered a violation of the zoning ordinance, and shall be removed.

(D) Commercial transmission/reception antennae and antenna support structures. Commercial transmission and reception antennae and antenna support structures, for the purposes of this chapter, shall mean commercial and industrial communications equipment accessory to business operations of one meter in width or greater, but not personal wireless telecommunications service equipment.

(1) Commercial transmission/reception antennae and antenna support structures shall be allowed as accessory uses only by conditional use permit following the provisions of § 153.028(D) of the zoning ordinance, and shall comply with the following additional requirements:

(a) Antennae and antenna support structures for commercial transmission/reception shall not occupy the front yard of any parcel.

(b) Antennae and antenna support structures allowed under this section shall be fully screened from adjoining residentially zoned parcels.

(c) Antennae and antenna support structures allowed under this section shall be fully screened from adjoining public right-of-way.

(d) Antennae and antenna support structures allowed under this section shall be fully screened from adjoining commercially-zoned property, that is, any parcel with a “B” zoning designation.

(e) Antennae and antenna support structures allowed under this section shall meet all other zoning conditions related to the location of mechanical equipment, whether ground or roof-top mounted.

(E) Wireless telecommunications service antennae and antenna support structures. Wireless telecommunications service antennae and antenna support structures, for the purposes of this chapter, shall mean any equipment necessary to provide or support all types of wireless electronic communications, including, but not necessarily limited to, wireless “cellular” telephone, radio, and internet transmission and reception communications between mobile communications providers and users, including public safety communications. “Small cell” wireless antennae and antenna support structures, defined exclusively as those facilities that are 50 feet or less in height and located within the public right-of-way subject to the city’s right-of-way ordinance, are generally excepted from these provisions. Such facilities are subject to the provisions of § 153.072(E)(3).

(1) Wireless telecommunications service antennae.

(a) Co-location of antennae for personal wireless services shall be a conditional use in all zoning districts on any existing conforming antenna support structure.

(2) Wireless telecommunications service antennae support structures.

(a) Except as otherwise allowed by § 153.072(E)(2)(b) below, support structures for personal wireless service antennae shall be allowed as an accessory use only by conditional use permit, subject to the following provisions:

1. Antenna support structures for personal wireless services shall be no greater in height than the maximum height requirements of the zoning district in which the antenna support structure is located, unless otherwise allowed within this section.

2. Antenna support structures for personal wireless services “A-O” zoning district, all residential zoning districts and the “B-1” zoning district shall be required to be attached to, or mounted upon, the principal building, and shall match said building in color and other design features so as to minimize visibility.

3. Antenna support structures for personal wireless services in the “B-2”, “B-3” and “B-4” zoning district shall be limited in height to 75 feet as measured from the natural grade at the location of the structure.

4. Antenna support structures for personal wireless services in the “I”, Industrial districts shall be limited in height to 150 feet as measured from the natural grade at the location of the structure.

5. Any antenna support structure shall be designed to accommodate the co-location of other antenna arrays.

6. Any freestanding antenna support structure shall be of monopole design.

7. All freestanding antenna support structures for personal wireless services shall be painted a galvanized light-grey color.

(b) Support structures for personal wireless service antenna may be allowed as an accessory use by conditional use permit on residentially zoned lots occupied by public uses, subject to the following provisions:

1. The site upon which the antenna support structure is located is occupied by a principal structure.

2. In no case shall an antenna support structure exceed 199 feet as measured from natural grade at the location of the structure.

3. Any antenna support structure shall be designed to accommodate the colocation of other antenna arrays.

4. Any freestanding antenna support structure shall be of monopole design.

5. All freestanding antenna support structures for personal wireless services shall be finished with a galvanized light-grey color.

6. The provisions of § 153.072(F) are satisfied.

(3) “Small cell” wireless facilities.

(a) “Small cell” wireless service antennae and antenna support structures shall require a conditional use permit when located in the right-of-way adjacent to any residentially zoned parcel, PUD (planned unit development) zoned project which includes residential dwellings, or other residential use, or any historic district. The CUP shall be reviewed pursuant to the provisions of § 153.028(A) of the Monticello Zoning Ordinance, and any other relevant restrictions. No conditional use permit shall be granted for any such facility that creates a substantial burden on the adjoining residential area or the public right-of- way in which it is located.

(b) No “small cell” support structure shall exceed 50 feet in height above the finished grade of the ground on which the structure is located.

(c) Notwithstanding division (b) above, the city may approve “small cell” facilities taller than 50 feet by conditional use permit in rights-of-way

adjacent to non-residential property when the city finds that such approval will have specific and substantial public benefits, including, but not limited to, reduction in the overall number or visual impacts of such facilities in the public right-of-way.

(d) Small cell facilities proposed to be co-located on existing support structures on private property, such as parking lot light poles, may be allowed as permitted uses provided no portion of the existing support structure or proposed antenna will exceed the allowable height for such structures in the subject zoning district and that the property is not a residentially zoned parcel, PUD (planned unit development) zoned project which includes residential dwellings, or other residential use, or any historic district.

(e) Any small cell wireless service antennae or new antenna support structures located outside of the public right-of-way, such as on private property, regardless of ownership, and which would exceed the allowable height for the support structure in the subject zoning district shall require a conditional use permit and be subject to all other general requirements of § 153.072, including this section, as well as any other applicable zoning or city code restrictions.

(F) General provisions for wireless telecommunications service antennae and antenna support structures.

(1) No new freestanding antenna support structure shall be located within one mile of any existing freestanding antenna support structure.

(2) No new freestanding antenna support structure shall be approved when there exists a co-location opportunity within one-half mile of the proposed structure location.

(3) Prerequisite. A proposal for a new telecommunications tower shall not be approved unless it can be documented by the applicant to the satisfaction of the city that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or structure within a one mile radius of the proposed tower—transcending all municipal boundaries—due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of an existing or approved tower or building, as documented by a licensed professional engineer, and any existing or approved tower or structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(b) The planned equipment would cause interference with other existing or planned equipment at the tower or structure.

(c) Existing or approved towers and structures within a one mile radius cannot accommodate the planned equipment at a height necessary for reasonable function.

(d) The applicant has demonstrated that location of the antennas, as proposed is necessary to provide adequate coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district or an existing structure. Information provided as part of the capacity analysis, that is a trade secret, pursuant to M.S. § 13.37, as it may be amended from time to time, shall be classified as non-public data.

(e) Other unforeseen reasons that make it unfeasible to locate the telecommunications equipment upon an existing or approved tower or building.

(4) Siting provisions.

(a) Antennae shall be located on existing buildings and structures whenever possible.

(b) No part of any antenna or antenna support structure, nor any appurtenances to such structure or antenna, shall extend over any public right-of-way or property line, nor be located within an public utility or drainage easement.

(c) Antenna support structures shall be designed to replicate materials and colors of similar structures in the area, such as lighting or utility poles.

(5) Setbacks.

(a) In all zoning districts, the antenna support structure and any appurtenant structures shall comply with the minimum setback requirements of the district in which the proposed structure is to be located, or the distance determined as the fall zone of the structure by a licensed professional engineer, whichever is greater.

(b) In all zoning districts, no freestanding antenna support structure shall be located within 250 feet of an existing residence, or the proposed home location on an approved preliminary plat.

(c) All antenna support structures shall be located in the rear yard of parcel whenever practical.

(6) Design and construction.

(a) No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.

(b) All antennae, antenna support structures, and accessory structures shall be in compliance with all city and State Building Codes, as applicable, and shall obtain all necessary permits.

(c) Structure design, mounting and installation of the antenna and antenna support structure shall be in compliance with the manufacture's specifications, and installation plans shall be approved and certified by a licensed professional engineer.

(d) Antenna support structures and antennae shall be grounded for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable provisions of all state codes.

(e) All transmitting, receiving and switching equipment shall be housed within a structure or cabinet whenever possible, and shall adhere to the following:

1. If a new tower accessory building is necessary to house such equipment, it shall be architecturally designed to blend in with the surrounding environment, and shall be screened from view by landscaping as deemed necessary by the City Council.

2. Accessory equipment associated with a rooftop antenna, satellite dishes, or wall antenna shall be located within the building, cabinet, or within a roof or ground enclosure which is constructed of materials and color scheme compatible with the principal building.

3. All transmitting, receiving and switching equipment shall be housed within a structure or cabinet. Such structure shall be architecturally designed to blend in with the surrounding environment, and shall be screened from view by landscaping consistent with the screening and landscaping requirements of the Monticello Zoning Ordinance.

4. Antenna support structures located within 1,000 feet of the FiberNet Monticello Co-Location Building shall be required to locate all transmitting, receiving and switching equipment within the FiberNet Monticello Co-Location.

(7) Lights and attachments.

(a) No antenna or antenna support structure shall have lights, reflectors or other illuminating devices of any kind, unless required by a federal or state regulatory authority.

(b) Lights attached to antenna support structures may be approved by the City Council as a part of a conditional use permit when such lights are used to illuminate a parking lot or other use on the ground, provided

such lights meet the exterior lighting requirements of the Monticello Zoning Ordinance.

(8) Site landscaping.

(a) The site on which an antenna or antenna support structure is located shall be landscaped to control dust, weeds, drainage, and to improve aesthetics of the property.

(9) Non-interference.

(a) No antenna installation shall transmit signals in a way that causes interference with any other electronic device.

(G) Application process and submittal requirements for wireless telecommunications service antenna support structures.

(1) Submittal requirements. All applications for a conditional use permit for any antenna or antenna support structure shall be accompanied by the following materials:

(a) Documentation, in the form of a signed lease or other adequate proof of property interest, demonstrating that the applicant has authority to seek the requested permit from the owner or owners of the parcel in question.

(b) A statement describing the proposed project, together with written justification supporting the proposed installation.

(c) Proof of insurance against injury or property damage caused by structural failure of any element of the installation.

(d) The legal description of the property on which the improvements are to be located.

(e) A certified survey of the property showing all existing conditions, along with the proposed improvements.

(f) A coverage study prepared by a radio frequency engineer showing alternative antenna support structure locations, co-location options, and whether such alternatives can accommodate the proposed antenna with reasonable coverage, including any known approved but unconstructed locations. Such plan shall include all existing towers, buildings, and other possible support structures.

(g) A landscaping and screening plan.

(h) A grading and drainage plan.

(i) Architectural drawings of all appurtenant structures planned for the site.

(j) A decommissioning plan outlining the means, process, and anticipated costs of removing all improvements at the end of their service life, or upon discontinued use.

(k) A security acceptable to the city adequate to ensure safe removal of all improvements upon decommissioning.

(l) A development agreement specifying the terms of the conditional use permit, including improvements, decommissioning, financial security, and other elements.

(m) Other information specified by the Community Development Director and/or City Council necessary to support the application and permit adequate municipal review of the request.

(H) Outside review. At the request of the Community Development Director, the city may seek and obtain the advice of outside experts to review technical materials submitted by the applicants, including the advice of structural experts, radio frequency engineers, or for any other related area of analysis. The applicant shall submit an escrow to cover the costs of such expertise.

(I) Removal of abandoned or unused antennae, antenna support structures, or other appurtenant elements. Any tower and/or antenna which is not used for six successive months shall be deemed abandoned and may be required to be removed from the property. All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the City Council. After the facilities are removed, the site shall be restored to its original or an improved state. If a tower is not removed within 12 months after the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property. The owner of the tower and the owner of the property are both responsible for removal of the tower as required by this section.

USE STANDARDS

§ 153.090 USE TABLE.

(A) Explanation of use table structure.

(1) Organization of Table 5-1. Table 5-1 organizes all principal uses by use classifications and use types.

(a) Use classifications. The use classifications are: agricultural uses; residential uses; civic and institutional uses; commercial uses; and

industrial uses. The use classifications provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., residential and commercial uses). The use classifications then organize land uses and activities into specific “use types” based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions.

(b) Use types. The specific use types identify the specific uses that are considered to fall within characteristics identified in the use classifications. For example; detached dwellings, parks and recreational areas, and schools are “use types” in the Single-family Residence District.

(2) Symbols used in Table 5-1.

(a) Permitted Uses = P. A “P” indicates that a use is permitted by right, subject to compliance with all other applicable provisions of this chapter. Uses may be subject to special regulations as referenced in the “additional requirements” column.

(b) Conditionally Permitted Uses = C. A “C” indicates that a use is permitted provided the city can establish conditions necessary to ensure the use is compatible to the proposed location and surrounding properties. Inability of the city to establish conditions to adequately control anticipated impacts is justification for denial of a conditionally permitted use. Conditional uses may also be subject to special regulations as referenced in the “additional requirements” column.

(c) Interim Permitted Uses = I. An “I” indicates that a use may be permitted for a brief period of time provided certain conditions are met, and a specific event or date can be established for discontinuance of the use. Inability of the city to establish conditions to adequately control anticipated impacts is justification for denial of an interim permitted use. Interim permitted uses may also be subject to special regulations as referenced in the “additional requirements” column.

(d) Prohibited Uses = Shaded cells. A shaded cell indicates that the listed use is prohibited in the respective base zoning district.

(e) Uses not provided for within zoning districts. In any zoning district, whenever a proposed use is neither specifically allowed nor denied, the use will be considered prohibited in which case an amendment to the ordinance text would be required to clarify if, where and how a proposed use could be established.

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I

B C

I 1

I 2

Agricultural Uses

Agriculture

P

P

P

P

P

P

P

P

P

P

P

P

See Table 5- 1A

See Ordinance No.

P

P

P

§ 153.091(B)(1)

Agricultural Sales

P

§ 153.091(B)(2)

Community Gardens

P

P

P

P

P

P

P

P

P

P

§ 153.091(B)(3)

Stables

C

§ 153.091(B)(4)

Residential Uses

§ 153.091(C)(1)

Attached Dwelling Types

§ 153.091(C)(2)(a)

Duplex

P

C

§ 153.091(C)(2)(b)

Townhouse

C

P

§ 153.091(C)(2)(c)

Multiple- family

C

P

C

C

§ 153.091(C)(2)(d)

Detached Dwelling

P

P

P

P

P

P

None

Group residential facility, single-family

P

P

P

P

P

§ 153.091(C)(3)

Group residential facility, multi- family

C

C

C

§ 153.091(C)(3)

Mobile and manufactured home park

C

C

C

P

C

§ 153.091(C)(4)

Civic and Institutional Uses

Active park facilities (public)

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

None

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I B C

I 1

I 2

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I B C

I 1

I 2

Civic and Institutional Uses

Active park facilities (private)

P

P

P

P

P

P

P

See Table 5- 1A

See Ordinance No.

§ 153.091(D)(1)

Assisted living facilities

C

P

C

C

P

§ 153.091(D)(2)

Cemeteries

C

C

C

C

C

C

C

§ 153.091(D)(3)

Clinics/medic al services

C

P

P

C

None

Essential services

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

None

Hospitals

C

P

P

C

§ 153.091(D)(4)

Nursing/

convalescent home

C

C

C

C

C

C

C

C

C

C

P

§ 153.091(D)(5)

Passenger terminal

C

C

C

C

None

Passive parks and open space

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

Place of public assembly

C

C

C

C

C

P

C

§ 153.091(D)(6)

Public buildings or uses

C

C

C

C

C

C

C

P

C

C

P

P

C

P

P

§ 153.091(D)(7)

Public warehousing temporary

I

I

I

§ 153.091(D)(8)

Schools, K-12

C

C

C

C

C

C

I

I

§ 153.091(D)(9)

Schools, higher education

C

Utilities (major)

C

C

C

§ 153.091(D)(10)

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I B C

I 1

I 2

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I B C

I 1

I 2

Commercial Uses

Adult uses

See Table 5- 1A

See Ordinance No.

P

P

§ 153.046(T)

Auction house

C

§ 153.091(E)(2)

Auto repair - minor

C

C

P

P

§ 153.091(E)(3)

Automotive wash facilities

P

C

§ 153.091(E)(4)

Bed and breakfasts

C

C

C

C

C

§ 153.091(E)(5)

Brew pub

P

P

§ 153.091(E)(6)

Business support services

P

P

P

P

P

None

Commercial lodging

P

P

P

§ 153.091(E)(7)

Commercial self-storage

C

C

§ 153.091(F)(3)
Communicatio ns/
broadcasting

P
P
P
P
§ 153.091(E)(8)
Convenience retail

C

P

P

P

§ 153.091(E)(9)

Country club

C

§ 153.091(E)(10)

Day care centers

C

C

C

P

P

C

§ 153.091(E)(11)

Entertainment/

recreation, indoor commercial

P

P

C

C

C

§ 153.091(E)(12)

Entertainment/

recreation, outdoor commercial

C

C

C

C

§ 153.091(E)(13)

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C

C

D

P

C

D

I B C

I 1

I 2

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C

C

D

P

C

D

I B C

I 1

I 2

Commercial Uses

Event center

C

C

C

See Table 5- 1A

See Ordinance No.

§ 153.091(E)14)

Financial institution

P

P

P

§ 153.091(E)(15)

Funeral services

P

P

§ 153.091(E)(16)

Kennels (commercial)

C

§ 153.091(E)(17)

Landscaping/

nursery business

P

§ 153.091(E)(18)

Offices, commercial and professional services

P

P

P

P

P

P

P

§ 153.091(E)(20)

Personal services

C

P

P

P

§ 153.091(E)(22)

Production brewery or micro- distillery without taproom

P

P

§ 153.091(F)(12)

Production brewery or micro- distillery with taproom or cocktail room

C

C

C

C

C

§ 153.091(E)(23)

§ 153.091(F)(13)

Recreational vehicle camp site

C

§ 153.091(E)(24)

Repair establishment

C

P

P

P

P

§ 153.091(E)(25)

Restaurants

C

P

P

C

§ 153.091(E)(26)

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I B C

I 1

I 2

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I B C

I 1

I 2

Commercial Uses

Retail commercial uses (other) buildings less than 10,000 sq. ft.

P

P

P

See Table 5- 1A

See Ordinance No.

§ 153.091(E)(27)

Retail commercial uses (other) buildings over 10,000 sq. ft.

C

P

P

§ 153.091(E)(27)

Retail service

P

P

P

§ 153.048

Specialty eating establishment s

C

P

P

P

§ 153.091(E)(28)

Vehicle fuel sales

C

C

C

§ 153.091(E)(29)

Vehicle sales and rental

C

§ 153.091(E)(30)

Veterinary facilities (rural)

C

§ 153.091(E)(31)

Veterinary facilities (neighborhoo d)

C

C

C

§ 153.091(E)(31)

Wholesale sales

P

P

P

None

Industrial Uses

Auto repair - major

C

P

P

§ 153.091(F)(1)

Bulk fuel sales and storage

C

§ 153.091(F)(2)

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I B C

I 1

I 2

TABLE 5-1: USES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P C D

I B C

I 1

I 2

Industrial Uses

Contractor's yard, temporary

See Table 5- 1A

See Ordinance No.

I

I

I

§ 153.091(F)(4)

Extraction of minerals

I

I

I

I

§ 153.091(F)(5)

General warehousing

C

P

P

§ 153.091(F)(6)

Heavy manufacturing

C

§ 153.091(F)(7)

Industrial services

C

P

None

Industrial self- storage facilities

C

C

§ 153.091(F)(8)

Land reclamation

C

C

C

C

C

C

C

C

C

C

C

C

C

C

C

C

§ 153.091(F)(9)

Light manufacturing

P

P

P

§ 153.091(F)(10)

Machinery/tru ck repair and sales

C

§ 153.091(F)(11)

Recycling and salvage center

C

§ 153.091(F)(14)

Truck or freight terminal

C

§ 153.091(F)(15)

Waste disposal and incineration

C

§ 153.091(F)(16)

Wrecker and towing services

C

P

§ 153.091(F)(17)

TABLE 5-1A: CENTRAL COMMUNITY DISTRICT (CCD) USES SUB-AREA

Riverfront (A)

Broadway (B)

Walnut & Cedar (C)

Pine (D)

General CCD

Notes

Use Types

Entertainment and open space, supported by retail

Retail, supported by entertainment; housing 2nd

Retail, supported by housing and services

Office, large space retail users, and retail service

Housing, supported by limited retail and services

TABLE 5-1A: CENTRAL COMMUNITY DISTRICT (CCD) USES SUB-AREA

Riverfront (A)

Broadway (B)

Walnut & Cedar (C)

Pine (D)

General CCD

Notes

Use Types

Entertainment and open space, supported by retail

Retail, supported by entertainment; housing 2nd

Retail, supported by housing and services

Office, large space retail users, and retail service

Housing, supported by limited retail and services

Additional use requirements applicable per § 153.091

Uses:

Residential Uses

Single- family

P*

CUP

*Upper floors only

Multi 3 du or under

P*

CUP*

P

*Upper floors only

Townhouse

CUP

CUP*

CUP

P

*Townhous es on Broadway east of Pine only

Multi 4-12 du

CUP

CUP

CUP

CUP

Multi 13+ du

CUP

CUP

CUP

CUP

CUP

Ground floor

CUP*

P

P

*Allowed on ground floor for townhouses on Broadway east of Pine

Commercial

Brew Pub <10,000 sq. ft.

P

P

P

P

Brew Pub >10,000 sq. ft.

CUP

P

CUP

P

Commercial Day Care

CUP

CUP

P

Commercial Lodging

P

CUP

CUP

P

Uses:

Commercial

Entertainme nt/Recreation, Indoor Commercial (including theaters)

CUP*

CUP*

CUP*

CUP

<10,000 sq. ft. only

Entertainme nt/Recreation Outdoor Commercial

Event centers

CUP

CUP

CUP

CUP

CUP

Subject to § 153.091(F)(14)

Funeral services

CUP

Personal services

P

P

P

P

CUP

Places of public assembly

CUP

CUP

CUP

CUP

CUP

Production brewery/ taproom

P

P

P

P

Micro- distillery/ cocktail room

P

P

P

P

Professional office - services and retail

CUP*

P

P

P

P

Upper floors preferred

Commercial office

CUP* - not allowed on ground floor

P/CUP* on ground floor

P/CUP* on ground floor

P

Upper floors preferred

Financial

P

P

P

P

Drive thru by CUP

Restaurants, bars <10,000 sq. ft.

P

P

P

P

CUP

Restaurants, bars > 10,000 sq. ft.

CUP

P

CUP

P

CUP

Retail Sales <10,000 sq. ft.

P

P

P

P

P

Retail Sales >10,000 sq. ft.

CUP

CUP

CUP

P

CUP

Retail with service

CUP

P

P

P

P

Specialty Eating Establishments <10,000 sq. ft.

P

P

P

P

CUP

Vehicle fuel sales

CUP

Veterinary facilities < 10,000 sq. ft.

CUP

CUP

CUP

CUP

No outdoor uses

Industrial Uses

Industrial PUD

PUD Only

PUD Only

Civic and Institutional Uses

Clinics/

medical services

CUP

CUP

P

P

Public buildings or uses (incl. public parks)

P

CUP

P

CUP

CUP

Schools Pre- K-12

CUP

CUP

CUP

TABLE 5-1B THE POINTES AT CEDAR DISTRICT (PCD)
See § 153.048

(Ord. 762, passed 8-23-2021; Ord. 780, passed 7-25-2022; Ord. 791, passed 11-14-2022; Ord. 797, passed 2-13-2023; Ord. 799, passed 2-27-2023)

§ 153.091 USE-SPECIFIC STANDARDS.

(A) General regulations applicable to all uses.

(1) Combination uses. In commercial and industrial base zoning districts, combination uses may be allowed within the principal building with each use subject to all regulations in this chapter.

(2) Nuisances prohibited. In addition to any nuisance provisions within city code, the following shall apply:

(a) Refuse and garbage.

1. In all districts, all refuse, rubbish, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such a purpose.

2. The owner of vacant land shall be responsible for keeping the land free of refuse, rubbish, or garbage.

(b) Glare.

1. Any lighting used to illuminate off-street parking area, sign, or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets.

2. Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property.

3. The source of lights shall be hooded or controlled in some manner so as not to cast light on adjacent property.

4. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

5. Any light or combination of lights which cast light on a public street shall not exceed one foot candle (meter reading) as measured from the center line of said street.

6. Any light or combination of lights which cast light on residential property shall not exceed 0.4 foot candles (meter reading) as measured from said property.

(c) Smoke. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15.

(d) Dust and other particulated matter. The emission of dust, fly ash, or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15.

(e) Noise. Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota pollution control standards and rules. In no case shall noise emanations constitute a nuisance as defined and regulated by this code.

(3) Building and structure location. All buildings and structures shall be so placed so that they will not obstruct future streets which may be constructed by the city in conformity with existing streets and according to the system and standards employed by the city.

(B) Regulations for agricultural uses.

(1) Agriculture.

(a) Agricultural related buildings and structures including farm dwellings shall be subject to Minnesota Pollution Control Standards.

(b) Agricultural uses shall not include commercial feed lots or other commercial operations.

(c) The keeping and/or raising of livestock raising shall be prohibited in all zoning districts except for the A-O District.

(2) Agricultural sales. All agricultural sales businesses shall adhere to the following:

(a) Activities shall be limited to those listed within the definition for an agricultural sales business.

(b) The agricultural sales business shall be located on land owned or leased by the producer or the operator of the business, and not within or on any public rights-of-way or easements.

(c) The operator must be able to demonstrate at all times to the city that there is sufficient access, parking and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.

(d) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.

(e) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.

(3) Community garden.

(a) Prior to a parcel being utilized as a community garden, the landowner shall be required to secure an annual community garden permit from the Community Development Department.

(b) Each community garden must have two or more gardeners as a prerequisite for obtaining a permit to ensure code and permit guidelines are followed.

(c) Unused plots and common areas shall be maintained and kept free of weeds, dead plant materials, and other debris/garbage.

(d) Containers, including water bins, and planters, shall not hold standing water unless they are completely covered.

(e) Composting of vegetative matter is allowed (leaves, plants, wood chips, etc.); composting of meat, human or pet waste is prohibited.

(f) Overhead lighting is prohibited.

(g) Signage is limited to a single, non-illuminated, single sided sign of four square feet.

(4) Stables.

(a) Animal building, holding, grazing, and exercise areas are located a minimum of 1,000 feet from any residential, commercial, or industrial use district.

(b) The land area of the property containing such use of activity meets the minimum established for the district.

(c) All applicable requirements of the State Pollution Control Agency are complied with.

(C) Regulations for residential uses.

(1) General regulations for all dwellings. All dwellings located in any residence district shall conform to the following minimum requirements in addition to the specific requirements applicable to the individual residence districts:

(a) Except for in the M-H zoning district, all dwellings shall be placed on a permanent foundation which complies with the Minnesota State Building Code, and which are solid for the complete circumference of the dwelling.

(b) All dwellings shall have a minimum width and depth of 20 feet, exclusive of porches, entryways, or attached storage sheds.

(c) All dwellings shall be served by public sanitary sewer and water.

(d) Direct vehicular access to residential units from arterial or collector roadways shall be prohibited unless no other reasonable alternative exists as determined by the Community Development Department.

(e) In addition to standards applicable to all houses in residential districts, manufactured homes, as defined by Minnesota Statutes, shall be built in compliance with the Minnesota Manufactured Homes Building Code and all statutory requirements (see M.S. §§ 327.31 through 327.35, as they may be amended from time, on manufactured homes).

(f) No cellar, basement, garage, tent, trailer, motor vehicle or accessory building shall at any time be used as an independent residence or

dwelling unit, either temporarily or permanently. Tents, play houses or similar structures may be used for play or recreational purposes.

(g) Except for dwellings classified as elderly (senior citizen) housing, the minimum floor area per dwelling unit shall be as prescribed in individual zoning district regulations.

(h) Apartment and condominium dwelling units shall only be located in multiple-family buildings or in buildings within the CCD district as regulated by this chapter.

(2) Attached dwelling.

(a) Regulations applicable to all attached dwelling types.

1. Size of development. All attached dwelling developments that contain more than two structures with dwelling units and/or having a structure containing more than ten dwelling units shall require a conditional use permit.

2. Usable open space. Except for mixed use projects in the CCD District, each multiple-family dwelling site or townhouse site shall contain at least 500 square feet of usable open space for each dwelling unit contained thereon, or a minimum of 30% green space, whichever is greater. For the purposes of this chapter, green space shall include lawn, shrubs, trees, or other planted open space usable for gardens, shade, or recreation and shall not include planted areas between parking areas or sidewalks and parking areas which are less then ten feet in width, nor shall it include any part of the public right-of-way, delineated wetland(s), or required stormwater ponding areas below the ten-year flood elevation.

(b) Duplex and two-family dwellings.

1. A minimum of two off-street parking spaces per unit shall be provided within an enclosed garage of at least 400 square feet.

2. All driveways and required off-street parking spaces shall be surfaced with concrete, bituminous or approved equivalent.

3. Legal nonconforming single-family dwellings located within R-3 Zoning Districts may be converted to duplex dwellings by conditional use permit where environmental conditions on the property support preservation of trees, drainage patterns, or other related features.

(c) Townhouse.

1. No building shall contain more than eight dwelling units.

2. Each dwelling unit shall have separate and individual front and rear entrances.

3. Private driveways for garages in townhouse developments shall provide a minimum of 20 feet worth of parking space which does not interfere with the use of public sidewalks or trails.

4. Setbacks:

a. Buildings in townhouse developments shall be located at least 20 feet apart and 20 feet from the back of the curb of a private roadway.

b. The applicable setbacks required in the underlying zoning district shall be met along the perimeter lot lines of the development and along all public roadways.

(d) Multiple-family.

1. Development of a multiple-family building shall be compatible with the existing and planned land use of the area and conflicts shall not be created between commercial and residential use and activities.

2. If in the R-2 district, multiple-family buildings shall be limited to four dwelling units.

3. If in the B-2 District, multiple-family buildings shall be adequately served by a collector or arterial street.

4. If in the B-1, B-2 or CCD district, multiple-family units shall be in the form of apartments or condominiums located above the first floor of the building, unless otherwise authorized to be on the first floor by a conditional use permit meeting the following additional standards:

a. The proposed site for residential use is consistent with the goals and objectives of the City's Comprehensive Plan and detailed in the Comprehensive Plan Amendment entitled "Downtown Monticello Small Area Plan."

b. The proposed site does not interrupt the flow of commercial pedestrian traffic in the “CCD” district.

c. Density for ground floor residential units shall not exceed one unit per 9,000 square feet of lot area, exclusive of land area utilized by, or required for, permitted uses on the property.

5. Multiple-family housing in the R-3, B-1, B-2 or CCD zoning districts shall be subject to the requirements found in Table 3-8 of § 153.043.

6. Multiple-family housing in the R-4 zoning district shall be subject to the requirements found in Table 3-9 of § 153.043.

(3) Group residential facility.

(a) Licensed day care facilities qualifying as group residential facilities shall adhere to the following:

1. No overnight facilities are provided for the children served. Children are delivered and removed daily.

2. All state laws and statutes governing such use are strictly adhered to and all required operating permits are secured.

(b) Group residential facility, multi-family.

1. Group residential facility, multi-family shall require authorization through a conditional use permit following the provisions of § 153.028(D), subject to the following conditions:

a. Density of residents shall equal no more than one person per 520 square feet of total net livable area in the principal dwelling.

b. Living accommodations for on-site resident staff shall be deducted from the principal dwelling square footage for purposes of determining density in division (1) above.

c. The property shall be developed to provide two off-street parking spaces for staff and one space per three residents for visitors.

d. Parking areas shall be paved with concrete or bituminous surface, and shall meet all other standards of parking lot design in this chapter, with the exception that the use shall be exempt from curb requirements.

e. The property shall maintain a minimum of 30% landscaped green space based on the gross area of the property.

f. The building shall be designed and constructed to be consistent with the architectural character of the neighborhood in which it is located.

(4) Manufactured homes/manufactured home park.

(a) Manufactured homes in general. All manufactured homes within the City of Monticello shall be built in conformance with the manufactured home building code and comply with all provisions of this chapter.

(b) Manufactured home parks. Development of new manufactured home parks shall be encouraged to use the planned unit development (PUD) process to allow the city to vary or modify the strict application and requirements for manufactured home parks to more readily accommodate this type of development. However, absent development through a PUD, the following requirements shall apply:

1. In general:

a. The minimum total manufactured home park area shall be five acres.

b. Each designated manufactured home site shall not be less than 2,500 sf.

c. Notwithstanding the type of development concept used, the maximum density shall be 13 manufactured homes per acre.

d. Manufactured homes shall be the only permitted dwelling type in a manufactured home park.

e. No tents shall be used for other than recreational purposes in a manufactured home park.

f. There shall be no outdoor camping anywhere in a manufactured home park.

g. Laundry and clothing shall be hung out to dry only on lines located in Council approved areas established and maintained exclusively for that purpose.

h. Adequate storm shelters for all residents of the manufactured home park shall be provided on-site.

i. No part of any manufactured home park shall be used for non-residential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.

j. All manufactured homes must be securely anchored in a manner which meets shoreland district requirements (if within a shoreland district) and applicable state requirements for resisting wind forces.

2. Grading, drainage and groundcover:

a. Condition of soil, ground water level, drainage, topography shall not create hazards to the property or the health and safety of the occupants.

b. The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

c. Exposed ground surfaces in all parts of every manufactured home park shall be paved or covered with stone, screening or other solid material, or protected with a grass that is capable of preventing soil erosion and of eliminating objectionable dust.

d. No portion of a manufactured home park shall be subject to unpredictable or sudden flooding.

3. Setbacks and lot requirements:

a. Manufactured homes shall be separated from each other and from other buildings and structures by at least 15 feet.

b. An accessory structure such as an awning, cabana, storage cabinet, carport, windbreak, and porch which has an opaque top or roof, shall, for purposes of all separation requirements, be considered to be part of the manufactured home. However, applicable building code separation requirements shall still apply as applicable.

c. There shall be a minimum distance of twenty feet between the manufactured home stand and abutting park street.

d. All manufactured homes, off-street parking spaces, and structures shall be located at least thirty feet from any property boundary line abutting upon a public street or highway and at least thirty feet from other property boundary lines.

e. Each manufactured home site shall have frontage on an approved roadway and the corner of each manufactured home site shall be marked and each site shall be numbered.

f. Dedicated storage area(s) and building(s) shall be for the sole use of the residents of the manufactured home park and are not available for use by non-residents.

4. Screening and open space:

a. All manufactured home parks located adjacent to residential, recreational, commercial or industrial land uses shall provide screening such as fences, shrubs, trees along the property boundary line separating the park and such uses, and shall be maintained by the state license holder in a neat and orderly manner.

b. A minimum of 2,000 sf. for every acre, or part thereof, in a manufactured home park shall be provided for definable play areas and open space. Such areas of open space and play area shall not be areas included within any setback nor shall they include any areas of less than twenty feet in length or width.

5. Parking. Each manufactured home site shall be served by two off-street parking spaces for automobiles.

6. Utilities:

a. All manufactured homes shall be connected to a public water and sanitary sewer system or a private water and sewer system approved by the State Department of Health.

b. All installations for disposal of surface stormwater must be approved by the city.

c. All utility connections shall be as approved by the city.

d. The source of fuel for cooking, heating, or other purposes at each manufactured home site shall be as approved by the city.

e. All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

f. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.

g. The method of garbage, waste, and trash disposal must be approved by the city.

h. Owner shall pay any required sewer and connection fees to the city.

7. Lighting:

a. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like.

b. The manufactured home park ground shall be lighted as approved by the city from sunset to sunrise.

8. Accessory structures:

a. Accessory storage buildings serving the overall park and not an individual unit in manufactured home parks, if not reviewed and approved as part of a PUD, shall be conditionally permitted subject to the following additional requirements:

(i) The storage building and any accompanying outdoor storage area shall be for the sole use of the residents of the manufactured home park and shall not be used by non-residents.

(ii) Accompanying outdoor storage areas shall be fully screened from surrounding manufactured home units and adjacent properties.

b. For individual residential units within a mobile or manufactured home park, the following standards shall apply:

(i) Only one detached accessory structure, major or minor, shall be allowed.

(ii) The maximum area of a detached accessory structure shall be 300 square feet.

(iii) The maximum height of the structure shall be 15 feet as measured at the median height of the roof.

(iv) The detached accessory structure may not be located between the front line of the residential unit and the park access road.

(v) Such structure shall be located five feet from any other structure.

(vi) The location of accessory structures shall be permitted only with the permission of the manufactured home park owner.

(vii) Detached accessory structures exceeding 300 square feet shall require authorization through conditional use permit, which shall be subject to the following requirements:

A. Permission of the park owner.

B. Detached accessory structure shall have access to the park road.

C. No other detached accessory structure shall be permitted.

D. The maximum height of the structure shall be 15 feet as measured at the median height of the roof.

(D) Regulations for civic and institutional uses.

(1) Active park facilities – private. Private park facilities must be operated only for the enjoyment and convenience of the associated residents and their guests.

(2) Assisted living facilities.

(a) The development must be contained on an single parcel; 30% of the parcel must be preserved as open space at least two-thirds of which shall be useable.

(b) To continue to qualify for the senior citizen housing classification, the owner or agent shall annually file with the Community Development Department a certified copy of a monthly resume of occupants of such a multiple dwelling, listing the number of tenants by age.

(c) One off-street loading space shall be provided in compliance with § 153.068, Off-Street Loading Spaces.

(d) Elevator service shall be provided to each floor level which contains senior housing units.

(e) Efficiency units shall be a minimum floor area of 440 square feet, and shall not exceed 20% of the total number of apartments in a multiple dwelling, or the maximum established in the district, whichever is less.

(f) One bedroom units shall be a minimum floor area of 520 square feet.

(3) Cemeteries.

(a) New cemeteries shall be located on a site or parcel with an area of at least two and one-half acres.

(b) New cemeteries shall be located on a site or parcel that fronts an arterial or collector street.

(c) Cemeteries shall include adequate space for the parking and maneuvering of funeral processions.

(d) Interments shall take place at least 50 feet from any lot line.

(e) Cemeteries shall not be located within one-half mile of Interstate Highway 94.

(4) Hospitals. A hospital shall:

(a) Be located on a site of at least five acres.

(b) Be located on a parcel that fronts or has direct access to an arterial or collector street.

(c) Be served by public water and wastewater systems.

(d) Side yards shall be double the minimum requirements established for the applicable district.

(e) When abutting a residential use in a residential use district, the property shall be screened with an aesthetic buffer (Table 4-2, Buffer Type "B") in accordance with § 153.060(G).

(f) Adequate off-street parking and access is provided in compliance with § 153.067 and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with § 153.060(F).

(g) Adequate off-street loading and service entrances are considered and satisfactorily provided in accordance with § 153.068.

(h) Exterior lighting standards outlined in § 153.063 shall be met.

(5) Nursing or convalescent home.

(a) Side yards shall be double the minimum requirements established for the applicable district.

(b) When abutting a residential use in a residential use district, the property shall be screened with an aesthetic buffer (Table 4-2, Buffer Type "B") in accordance with § 153.060(G).

(c) One off-street loading space in compliance with § 153.067 is installed.

(6) Places of public assembly.

(a) Institutions on parcels exceeding 20,000 square feet in area shall be located with direct frontage on, and access to, a collector or arterial street.

(b) The buildings are set back from adjoining residential districts a distance no less than double the adjoining residential setback.

(c) When abutting a residential use in a residential use district, the property shall be screened with an aesthetic buffer (Table 4-2, Buffer Type "B") in accordance with § 153.060(G).

(d) Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with § 153.067 of this chapter and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with § 153.060(F).

(e) Adequate off-street loading and service entrances are considered and satisfactorily provided.

(f) Public assembly in the B-3 District:

1. Shall only be allowed on properties of ten acres in size or more, except that the city may consider such uses on smaller properties by interim use permit, subject to the following requirements:

a. The applicant for an IUP would enter into a development agreement specifying the duration of the IUP, with a time limitation.

b. The applicant would be able to demonstrate that the interim occupancy would not interfere with other commercial uses of the property, either in the nature of the use, the times of operation, or demand for services, such as parking or other impacts.

c. The IUP would expire upon the end of the specified term, or when the applicant vacates the property, and would not be transferable to another similar public assembly use.

d. Changes in scope or nature of the proposed use, operation, or other elements would require amendment to the IUP and the development contract, or a new IUP, depending on the change.

e. No such IUP, subsequent amendment, or reapplication may result in a duration of the subject use for more than ten years of cumulative and continuous occupancy.

2. Public assembly uses in the B-3 District must occupy buildings of at least 20,000 gross square feet of area.

3. Public assembly uses in the B-3 District shall provide off-street parking areas that are designed to meet their unique traffic patterns and parking accumulation ratios. For the B-3 district, the requirement shall be one parking space per two and one-half seats in the main assembly area, based on the building code calculation for maximum occupancy.

4. Proposed public assembly applications in the B-3 District will be required to provide a traffic study demonstrating peak traffic periods, and the ability to manage traffic loads without negatively impacting the adjoining public streets. Private and/or public street improvements may be required to ensure no negative impacts.

5. CUP applications for public assembly uses in the B-3 District will require the identification of the principal use, and those other uses of the subject property that are proposed as accessory uses. All such uses must be allowed in the B-3 District.

(g) In the CCD, the following conditions shall apply:

1. Building architecture shall be designed to reflect retail street-level architecture as defined in the City's Comprehensive Plan, and detailed in the Comprehensive Plan Amendment entitled "Downtown Monticello Small Area Plan."

2. Site planning shall minimize parking lot development adjacent to public area in the district, including streets, pathways, and open spaces.

(7) Public buildings or uses:

(a) When abutting a residential use in a residential use district, the property shall be screened with an aesthetic buffer (Table 4-2, Buffer Type "B") in accordance with § 153.060(G).

(b) Conformity with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.

(c) Adequate off-street parking and access is provided on the site or on lots directly abutting the principal use in compliance with § 153.067 and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with § 153.060(F).

(d) Adequate off-street loading and service entrances are considered and satisfactorily provided in accordance with § 153.068.

(e) Exterior lighting standards outlined in § 153.063 shall be met.

(8) Public warehousing, temporary.

(a) The use shall be allowed by interim use permit, with a termination date of no later than five years from the date of approval.

(b) The interim use shall apply to public storage of equipment only, and shall not apply to any private entity, either during or after the term of the permit.

(c) The use, if not allowed as a permitted principal use, may be a "secondary use" allowed on the property, separate and unrelated to the principal use.

(d) The use shall occupy indoor storage only, in one or more existing buildings, and shall not include outdoor storage.

(e) The use shall otherwise meet all zoning and building code standards.

(f) The use shall not interfere with other permitted, conforming private uses of the property, nor with the provision of public services to the property or the neighborhood in which it is located.

(g) No signage shall be allowed identifying the use, other than permitted directional signage on the property.

(9) Pre-K-12 schools (public or private):

(a) Educational institutions on parcels exceeding 20,000 square feet in area shall be located with direct frontage on, and access to, a collector or arterial street.

(b) The buildings are set back from adjoining residential districts a distance no less than double the adjoining residential setback.

(c) When abutting a residential use in a residential use district, the property shall be screened with an aesthetic buffer (Table 4-2, Buffer Type "B") in accordance with § 153.060(G).

(d) Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with § 153.067 and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with § 153.060(F).

(e) Adequate off-street loading and service entrances are considered and satisfactorily provided in accordance with § 153.068.

(f) Exterior lighting standards outlined in § 153.063 shall be met.

(g) If locating within an industrial zoning district:

1. A specified termination date is documented.

2. The proposed parcel has adequate improved parking to accommodate the student capacity.

3. The proposed building is constructed or altered only in ways which do not interfere with future refitting for industrial use.

(h) Buildings and structures must comply with building code requirements as adopted by the City of Monticello.

(10) Utilities (major).

(a) An electrical power facility, substation, or transmission station as a principal use of property shall be set back at least 100 feet from all lot lines. Service or storage yards shall be prohibited.

(b) All commercial WECS systems shall adhere to the requirements of § 153.071.

(E) Regulations for commercial uses.

(1) Adult uses: See § 153.046(T).

(2) Auction house.

(a) The architectural appearance and function plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.

(b) When abutting a residential use, the property shall be screened with at least a semi-opaque buffer (Table 4-2, Buffer Type “C”) in accordance with § 153.060(G).

(c) Parking areas shall be landscaped and screened from view in compliance with § 153.060(F).

(d) Off-street parking shall comply with § 153.067.

(e) Vehicular access points shall be limited, shall create a minimum of conflict through traffic movements, and shall be subject to the approval of the Community Development Department.

(f) All lighting shall be in compliance with § 153.063.

(g) The entire area shall have a drainage system which is subject to the approval of the Community Development Department.

(h) All signing and information or visual communication devices shall be in compliance with § 153.064.

(i) The use shall require authorization through a conditional use permit following the provisions of § 153.028(D).

(j) All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.

(k) No pets or livestock may be sold at this auction sales facility.

(l) Provisions must be made to control and reduce noise when adjacent to a residential zoning district.

(m) All outside storage and outdoor sales and display, if allowed, shall be effectively screened from public view in accordance with § 153.060(I) and limited to 10% of the gross floor area of the principal use building.

(3) Auto repair – minor.

(a) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(b) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25% of the buildable area of the lot, is located behind the front building line of the principal structure, and is screened with a wooden fence, maintenance free vinyl or masonry wall in accordance with § 153.062, Fences & Walls.

(c) If gasoline is sold on-site, the use shall also comply with the standards for vehicle fuel sales as regulated by this chapter.

(d) Vehicles not being repaired but used as a source of parts shall be prohibited unless full enclosed within a building.

(e) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30-day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

(f) When abutting a residential use, the property shall be screened with at least a semi-opaque buffer in accordance with (Table 4-2, Buffer Type "C") in accordance with § 153.060(G).

(4) Automotive wash facilities.

(a) All automotive wash facilities shall adhere to the following standards:

1. The architectural appearance and functional plan of the building and site shall be consistent with the existing buildings and area to avoid impairment in property values and blight within a reasonable distance of the lot.

2. Magazining or stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum 30-minute period and shall be subject to the approval of the Community Development Department.

3. When abutting a residential use, the property shall be screened with at least a semi-opaque buffer (Table 4-2, Buffer Type “C”) in accordance with § 153.060(G).

4. All lighting shall be in compliance with § 153.063.

5. Parking or car magazine storage space shall be screened from view of abutting residential districts in compliance with § 153.060(F).

6. The entire area other than occupied by the buildings or plantings shall be surfaced with material which will control dust and drainage which is subject to the approval of the Community Development Department.

7. The entire area shall have a drainage system which is subject to the approval of the Community Development Department.

8. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement, and shall be subject to the approval of the Community Development Department.

9. All signing and informational or visual communication devices shall be in compliance with § 153.064.

10. Provisions are made to control and reduce noise.

11. Car wash facility shall have direct access to major thoroughfare via driveway or frontage road.

12. Intermittent sounds produced by car wash operation such as the sound of a vacuum or warning signal shall not be audible to adjoining residential properties.

(5) Bed and breakfast facilities.

(a) Bed and breakfast operations shall be limited to residential structures existing prior to the date of this chapter.

(b) The property shall be landscaped with at least a basic buffer (Table 4-2, Buffer Type “A”) in accordance with § 153.060(G).

(c) Food served on the premises may be served only to overnight guests of the bed and breakfast.

(d) The owner, operator, or manager of the bed and breakfast shall reside on the premises.

(e) Activities shall be limited to those customary to the operation of a bed and breakfast facility. Commercial use of the property for other activities not normally associated with the operation of a bed and breakfast such as wedding receptions, parties, etc., are not allowed.

(f) Operation of the bed and breakfast facility shall comply with all state regulations governing such facilities.

(6) Brew pubs.

(a) Brew pubs shall be permitted in the CCD, B-3 and B-4 Districts provided that:

1. The brew pub sells 85% or more of its beer on-site.

2. The beer is brewed primarily for sale in the restaurant and bar, and may be dispensed directly from the brewery’s storage tanks.

3. Brewpubs may also sell beer for off-sale consumption in growler containers provided the conditions are met.

(7) Commercial lodging.

(a) All hotels and motels shall adhere to the following:

1. A hotel or motel shall have its principal frontage, access, and orientation direction on an arterial street or collector street.

2. Vehicular access from a local residential street is prohibited.

3. No more than one security or caretakers quarters may be provided on the site, and such quarters shall be integrated into the building’s design.

(b) In the CCD District, the following additional standards shall apply:

1. The principal building lot coverage is no less than 50% of the property, exclusive of easements devoted to public pedestrian use or other outdoor public spaces.

2. The building, site, and signage meet the standards for the “CCD” District.

3. The proposed use demonstrates compatibility and consistency with the City's Comprehensive Plan and as detailed in the Comprehensive Plan Amendment entitled "Downtown Monticello Small Area Plan."

(8) Communications/broadcasting. All communication antennas, antenna support structures and satellite dishes shall adhere to the applicable accessory use requirements for such outlined in § 153.092.

(9) Convenience retail. In the B-1 zoning district, the following conditions shall apply:

(a) The site is adequately served by a collector street.

(b) Access point to the site shall be limited to a collector street.

(c) Conformity with the surrounding neighborhood is maintained.

(d) Adequate screening and landscaping from neighborhood residential districts is provided in accordance with this chapter.

(e) Traffic generated by the proposed use does not exceed the capacity of surrounding streets and intersections to accommodate it.

(f) The site shall conform to parking requirements as provided in this chapter.

(g) Building setback from residential uses must be 30 feet or greater.

(h) Parking lot setback from residential uses must be 15 feet or greater.

(i) The site shall conform to signage requirements as recommended by the city. At no time shall the signage exceed the requirements as provided in this chapter.

(j) The site shall conform to lighting requirements as provided in this chapter. The lighting shall be restricted to be consistent with the hours of operation, within one half hour of open and close times.

(k) The hours of operation shall be limited to 6:00 a.m. to 9:00 p.m., except as may be approved by conditional use permit.

(l) In addition to the above requirements, if in the CCD, the following conditions shall apply:

1. Building architecture shall be designed to reflect retail street-level architecture as defined in the City's Comprehensive Plan, and detailed in the Comprehensive Plan Amendment entitled "Downtown Monticello Small Area Plan."

2. Site planning shall maximize building exposure to the street.

3. Drive-through facilities shall be located to minimize their exposure to the street.

4. Accessory structures, including canopies, menu boards, pay windows, and other structures supporting drive-through functions shall be constructed of materials to match those of the principal building.

5. Site planning shall be designed to emphasize connections to pedestrian facilities.

(10) Country club.

(a) The principal use, function, or activity is open, outdoor in character.

(b) Not more than 5% of the land area of the site be covered by buildings or structures.

(c) When abutting a residential use, the property shall be screened with at least an aesthetic buffer (Table 4-2, Buffer Type “B”) in accordance with § 153.060(G).

(d) The land area of the property containing such use or activity meets the minimum established for the districts.

(11) Day care center.

(a) No overnight facilities shall be provided for children served by the daycare. Children must be delivered and removed from the facility daily.

(b) An outdoor recreational facility:

1. Shall be appropriately separated from the parking lot and driving areas by a fence not less than four feet in height;

2. Shall be located continuous to the day-care facility;

3. Shall not be located in any yard abutting a major thoroughfare;

4. Shall not have an impervious surface for more than one-half of the playground area;

5. Shall extend at least 60 feet from the wall of the building or to an adjacent property line, whichever is less, or shall be bound on not more than two sides by parking and driving areas; and

6. Shall be a minimum size of 2,000 sq. ft., or in the alternative 75 sq. ft. per child at licensed capacity, whichever is the greater figure.

(c) All state laws and statutes governing such use are strictly adhered to and all required operating permits are secured.

(d) In addition to divisions (a) through (c) above, day care centers in the IBC and I-1 district, shall adhere to the following additional requirements:

1. Only be allowed as a secondary combination use which complements a primary business;

2. Only be conducted in the principal building, and not exceed 20% of the total principal building square footage;

3. Be physically separated from the other activities occurring in the principal building;

4. Not have a dedicated entrance (other than emergency exits) from the exterior of the principal building;

5. Not have dedicated off-street parking or signage.

(12) Entertainment/recreation – indoor commercial.

(a) No auctions shall take place on the premises.

(b) Outdoor storage shall be prohibited.

(c) Noise shall be controlled consistent with the standards of this chapter.

(d) When abutting a residential use, the property shall be screened with an aesthetic buffer (Table 4-2, Buffer Type “B”) in accordance with § 153.060(G).

(13) Entertainment/recreation – outdoor commercial.

(a) When abutting a residential use, the property shall be screened with at least a semi-opaque buffer (Table 4-2, Buffer Type “C”) in accordance with § 153.060(G).

(b) Adequate measures to contain the proposed activity on the subject site shall be provided.

(c) Dust and noise are controlled consistent with City Ordinance.

(d) No auctions shall take place on the premises.

(e) Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m..

(f) All lighting shall be in compliance with § 153.063.

(14) Event centers.

(a) Proximity to residential uses. Property upon which event centers are located shall not abut residentially zoned property, with the exception of R-3 and R-4 zoned properties.

(b) Parking. Off-street parking for event centers shall be provided in accordance with § 153.067.

(c) Event size. Event centers shall be allowed a maximum event size as specified by the conditional use permit.

(d) Number of events.

1. Event centers in the B-3 and B-4 District are not restricted in the number of events allowed unless restricted by the conditional use permit.

2. Event centers in the B-2 District may be limited to certain days or number of events by the City Council per the conditional use permit.

(e) Hours of operation. Event center hours of operation shall be as established by the City Council per the conditional use permit.

(f) Noise regulations. Event centers shall be subject to the noise-related provisions of City Code.

(g) Food regulations. Event centers may serve food and beverages as an accessory activity in accordance with all applicable federal, state, and city regulations.

(h) Overnight accommodations. Overnight accommodations are not allowed.

(i) Accessibility. All buildings used in conjunction with event centers shall meet applicable accessibility requirements imposed by state or federal law.

(j) Code compliance. The building(s) used for the event center shall meet any and all applicable federal, state, and local codes, including those which apply to sanitary facilities.

(k) Outdoor events. All events shall take place within the event center building(s), unless otherwise allowed in the zoning district or City Code.

(15) Financial institutions. Drive-thru service, if approved as an accessory use to a financial institution, shall be located to the side or rear of the principal building whenever feasible.

(16) Funeral services.

(a) Funeral homes shall have its principal frontage, access, and orientation direction on an arterial or collector street.

(b) All structures shall be located so as not to require access from an interior residential street.

(17) Kennels (commercial):

(a) The kennel shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.

(b) Any open runs or pens used to house animals shall be located at least 75 feet from any lot line.

(c) Accessory uses to a kennel may include retail sales and grooming services, as long as the accessory uses do not occupy more than 25% of the total gross floor area of the principal building.

(d) All kennels shall operate in conformance with City Code requirements and licensures.

(18) Landscaping/nursery business.

(a) The business shall be located next to a collector or arterial street as identified in the comprehensive plan, or otherwise located so that access to the site will not conduct significant traffic on local residential streets.

(19) Medical/clinical services. In the CCD, the following conditions shall apply:

(a) Building architecture shall be designed to reflect retail street-level architecture as defined in the City's Comprehensive Plan, and detailed in the Comprehensive Plan Amendment entitled "Downtown Monticello Small Area Plan."

(b) Street-level floor planning designed to accommodate use by or conversion to future use as retail land uses.

(20) Offices (commercial).

(a) Outdoor storage and accessory building - major shall be prohibited.

(b) Buildings or structures with less than 51% of office space shall not be classified as an office use and shall be regulated by the other use of the structure.

(c) If in the B-1 district, the following shall apply:

1. The traffic generated will not raise traffic volumes beyond the capacity of the surrounding area.

2. The architectural appearance of the building housing the office use shall reflect the building character of the area and shall not be so dissimilar as to cause impairment of property values or constitute a blighting influence within the neighborhood.

3. The provisions of this chapter are considered and satisfactorily met.

4. The site shall conform to signage requirements provided under § 153.064.

5. The site shall conform to lighting requirements as provided in this chapter. The lighting shall be restricted to be consistent with the hours of operation, within one half hour of open and close times.

(d) In the CCD, the following conditions shall apply:

1. Building architecture shall be designed to reflect retail street-level architecture as defined in the City's Comprehensive Plan, and detailed in the Comprehensive Plan Amendment entitled "Downtown Monticello Small Area Plan."

2. Street-level floor planning designed to accommodate use by or conversion to future use as retail land uses.

3. Parking areas shall be situated so as to minimize their exposure to public areas, or shall be landscaped and screened to minimize large expanses of open pavement.

(21) Offices (professional) including financial institutions.

(a) Outdoor storage and accessory building - major shall be prohibited.

(b) Buildings or structures with less than 51% of office space shall not be classified as an office use and shall be regulated by the other use of the structure.

(c) If in the B-1 district, the following shall apply:

1. The traffic generated will not raise traffic volumes beyond the capacity of the surrounding area.

2. The architectural appearance of the building housing the office use shall reflect the building character of the area and shall not be so dissimilar as to cause impairment of property values or constitute a blighting influence within the neighborhood.

3. The provisions of this chapter are considered and satisfactorily met.

4. The site shall conform to signage requirements provided under § 153.064.

5. The site shall conform to lighting requirements as provided in this chapter. The lighting shall be restricted to be consistent with the hours of operation, within one half hour of open and close times.

(d) In the CCD, the following conditions shall apply: Building architecture shall be designed to reflect retail street-level architecture as defined in the City's Comprehensive Plan, and detailed in the Comprehensive Plan Amendment entitled "Downtown Monticello Small Area Plan."

(e) Street-level floor planning designed to accommodate use by or conversion to future use as retail land uses.

(f) Parking areas shall be situated so as to minimize their exposure to public areas, or shall be landscaped and screened to minimize large expanses of open pavement.

(g) Parking supply shall be calculated at the same rate as retail sales.

(22) Personal services.

(a) Outdoor storage and accessory building - major shall be prohibited.

(b) Drive-thru service shall require authorization through conditional use permit in accordance with § 153.091.

(c) In the B-1 district, the following shall apply:

1. Outdoor lighting shall be restricted to be consistent with the hours of operation, within one half hour of open and close times.

2. Hours of operation shall be limited to 6:00 a.m. to 9:00 p.m.

(d) Establishments engaged in dry cleaning shall be held to the following requirements:

1. Dry cleaning processing shall be restricted to the B-4 district.

2. Dry cleaning operations shall be self-contained in terms of noise and fumes with no venting to outside of building.

3. Dry cleaning facilities shall have direct access to major thoroughfare via driveway or frontage road.

(e) Tattoo facilities and providers shall be required to comply with the requirements of the Minnesota Department of Health licensing requirements and regulations, and display evidence of such compliance in a conspicuous location within the establishment.

(23) Production breweries and micro-distilleries with accessory taproom or cocktail room. Production breweries and micro-distilleries with accessory taproom or cocktail room shall be allowed by conditional use permit in the CCD, B-3 and B-4 Districts, provided that:

(a) The owner of the brewery qualifies for and receives a brewer license and a malt liquor wholesale license from the State of Minnesota, according to M.S. § 340A.301, as it may be amended from time to time.

(b) The brewery or micro-distillery includes an accessory brewer's taproom or cocktail room for the on-sale of products produced on-site, and such room shall require the applicable license from the City of Monticello, according to City Code.

(c) On-site sale of beer in the form of growlers shall require a brewery license for off-sale of malt liquor, according to City Code. Off-sale hours of sale must conform to hours of sale for retail off-sale licensees in the City of Monticello.

(d) Total production of malt liquor may not exceed 10,000 barrels annually. Of the 10,000-barrel production limit, onsite taproom retail sales shall not exceed 3,500 barrels annually, 500 barrels of which may be sold off-sale as growlers. The brewer shall annually submit production reports with the request to renew a brewer taproom or off-sale malt liquor license.

(e) A micro-distillery may be issued a license for off-sale of distilled spirits. The license may allow the sale of one 375-milliliter bottle per customer per day of product manufactured on-site, subject to the following requirements:

1. Off-sale hours of sale must conform to hours of sale for retail off-sale licensees in the City of Monticello.

2. No brand may be sold at the micro-distillery unless it is also available for distribution by wholesalers.

(f) Total production of liquor may not exceed 40,000 proof gallons annually. Of the 40,000 proof gallon production limit, onsite cocktail retail sales shall not exceed 3,500 proof gallons annually, 500 proof gallons of which may be sold off-sale in 375 milliliter bottles. The distiller shall annually submit production reports with the request to renew a cocktail room or off-sale liquor license.

(g) The brewery or micro-distillery facility provides adequate space for off-street loading and unloading of all trucks greater than 22 feet in length. In the absence of off-street loading, the city may impose limits on deliveries or shipments using the public rights-of-way, including regulating the number of trucks per day and the hours that deliveries are permitted.

(h) Loading docks shall be located and designed so they are not visible from adjoining public streets or adjoining residential zoning.

(i) No outdoor storage is permitted on the site, with the exception that waste handling (refuse and/or recycling) may occur in an enclosure that is fully screened from adjoining streets and residential zoning.

(j) No odors from the business may be perceptible beyond the property line.

(k) The business must be housed in a building that utilizes building design similar to, or compatible with, common commercial architecture, and shall avoid large wall expanses which contribute to an industrial environment.

(l) The brewer must demonstrate the capacity for producing, processing and storing malt liquor on the commercial site through the provision of a building floor plan illustrating production, bottling, and storage areas.

(m) All exterior lighting shall be compliant with § 153.063.

(24) Recreational vehicle camp site.

(a) The land area of the property containing such use or activity meets the minimum established for the district.

(b) The site shall be served by a major or arterial street capable of accommodating traffic which will be generated.

(c) All driveways and parking areas shall be surfaced with a dustless material.

(d) Plans for utilities and waste disposal shall be subject to approval by the Community Development Department, and all applicable requirements of the State Pollution Control Agency are complied with.

(e) Not more than 5% of the land area of the site shall be covered by buildings or structures.

(f) The locations of such use shall be at minimum 100 feet from any abutting residential use district.

(25) Repair establishments.

(a) Outdoor storage and accessory building - major shall be prohibited.

(b) Outdoor storage shall be prohibited in the B-1, B-2 and CCD districts.

(c) No process involved in a repair operation shall produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.

(26) Restaurants.

(a) For all restaurants, if the establishment (building) or outdoor seating area is located within 300 feet of a residential zoning district, the following standards shall apply:

1. The use shall require authorization through a conditional use permit.

2. Primary access from local residential streets shall be prohibited.

(b) Restaurants having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:

1. The outdoor portions of the restaurant shall not operate after 10:00 p.m. unless a special event permit for such events has been approved by the City Council. Such a permit supersedes the provisions of City Code.

2. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

3. The outdoor portions of the restaurant shall not operate after 10:00 p.m. unless a special event permit for such events has been approved by the City Council. Such a permit supersedes the provisions of City Code.

4. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

(c) Restaurants having drive-through facilities shall require a conditional use permit and comply with the following standards:

1. All requirements for an accessory drive-through facility shall be met.

2. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of lot.

3. When abutting a residential use, the property shall be screened with at least a semi-opaque buffer (Table 4-2, Buffer Type “C”) in accordance with § 153.060(G).

4. Each light standard island and all islands in the parking lot landscaped or covered.

5. Parking areas shall be screened from view of abutting residential districts in compliance with § 153.060(F).

6. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movements, and shall be subject to the approval of the Community Development Department.

7. If in the CCD District, the following standards shall also apply:

a. The design of the site promotes pedestrian access adjacent to and along the property.

b. Site lighting shall utilize fixtures similar in style to that designated by the city for use in public areas of the “CCD” district.

c. The building, site, and signage meet the standards for the “CCD” district and design review is conducted by the Planning Commission.

d. Drive through facilities comply with the requirements of § 153.092(D)(14).

e. The proposed use demonstrates compatibility and consistency with the City’s Comprehensive Plan and as detailed in the Comprehensive Plan Amendment entitled “Downtown Monticello Small Area Plan.”

(27) Retail commercial uses (other).

(a) If the retail sales includes consignment sales, the following standards shall apply:

1. No auctions shall take place on the premises.

2. There shall be no outside storage.

(28) Specialty eating establishments.

(a) Drive through service shall be reviewed through the conditional use permit process and shall be located to the side or rear of the building whenever feasible.

(b) For all specialty eating establishments, if the establishment (building) or outdoor seating area is located within 300 feet of a residential zoning district, the following standards shall apply:

1. The use shall require authorization through a conditional use permit.

(c) Restaurants having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:

1. The outdoor portions of the restaurant shall not operate after 10:00 p.m.

2. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

(d) In addition to the above requirements, if in the CCD, the following conditions shall apply:

1. Building architecture shall be designed to reflect retail street-level architecture as defined in the City's Comprehensive Plan, and detailed in the Comprehensive Plan Amendment entitled "Downtown Monticello Small Area Plan."

2. Site planning shall maximize building exposure to the street.

3. Drive-through facilities shall be located to minimize their exposure to the street.

4. Accessory structures, including canopies, menu boards, pay windows, and other structures supporting drive-through functions shall be constructed of materials to match those of the principal building.

5. Site planning shall be designed to emphasize connections to pedestrian facilities.

(29) Vehicle fuel sales.

(a) Regardless of whether the dispensing, sale, or offering for sale of vehicle fuels including gasoline, diesel, natural gas, or other petroleum fuels and oils, electric charging stations of more than two such stations, hydrogen, or any other fuel intended to power motor vehicles of any sort is the principal use of the property or is accessory to the conduct of the use or business, the standards and requirements imposed by this chapter for vehicle fuel sales shall apply. These standards and requirements are, however, in addition to other requirements which are imposed for other uses of the property.

(b) A principal building is required wherever fuel pumps are to be installed, which square footage shall be a minimum of 10% of the total lot area.

(c) If the facility is in a Business Zoning District and/or associated with a business use in another district, such as a PUD district, the dispensing of such fuels shall be associated with a principal building accessible to the public, in which retail transactions of such fuels and/or other goods may occur.

(d) Wherever fuel pumps are to be installed, pump islands shall be installed.

(e) All signing and informational or visual communication devices shall be minimized and shall be in compliance with § 153.064.

(f) Provisions are made to control and reduce noise.

(g) If in the CCD District, the following standards shall also apply:

1. The design of the site promotes pedestrian access adjacent to and along the property.

2. No more than two curb cuts of 24 feet in width or less shall be permitted.

3. Site lighting shall utilize fixtures similar in style to that designated by the city for use in public areas of the “CCD” district.

4. The building, site, and signage meet the standards for the “CCD” district and design review is conducted by the Planning Commission.

5. The proposed use demonstrates compatibility and consistency with the City’s Comprehensive Plan and as detailed in the Comprehensive Plan Amendment entitled “Downtown Monticello Small Area Plan.”

(g) Electric vehicle charging facilities of more than two charging stations may be permitted in any zoning district on parcels on which a public use or building is also present. Such use shall require authorization through conditional use permit and subject to all provisions of § 153.091(E)(29).

(30) Vehicle sales or rental.

(a) The minimum building size for any vehicle sales or rental use shall comply with the standards in Table 5-3.

TABLE 5-3: MINIMUM BUILDING SIZE FOR VEHICLE SALES/RENTAL USES

Parcel Size

Lot Coverage Percent*

Minimum Building Size*

Less than 2 acres

5%

2,500 sq. ft.

2 acres to less than 4 acres

7%

10,000 sq. ft.

4 acres to less than 8 acres

9%

20,000 sq. ft.

8 acres or more

9%

40,000 sq. ft.

*Whichever requires the larger building

(b) When abutting a residential use, the property shall be screened with an opaque buffer (Table 4-2, Buffer Type “D”) in accordance with § 153.060(G).

(c) All lighting shall be in compliance with § 153.063.

(d) The outside sales and display area shall be hard surfaced.

(e) The outside sales and display area does not utilize parking spaces which are required for conformance with this chapter.

(f) Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the Community Development Department.

(g) There is a minimum lot area of 22,500 square feet and minimum lot dimensions of 150 feet by 130 feet.

(h) A drainage system subject to the approval of the Community Development Department shall be installed.

(31) Veterinary facilities.

(a) Treatment shall be limited to small household pets unless the facility is conditionally permitted as a rural veterinary facility.

(b) In the CCD district, animals shall only be housed overnight if they are undergoing medical treatment or observation. Overnight boarding for non-medical reasons shall be prohibited.

(c) The site shall be designed to prevent animal waste from being exposed to stormwater or entering the stormwater system, streams, lakes, or conveyances. If an area is provided for animals walking, it shall not be exposed to stormwater and the waste shall immediately be picked up and disposed of properly.

(d) Animals shall not be kept outdoors or be allowed to remain outside unsupervised.

(e) All animals must be leashed.

(f) No outside storage of carcasses.

(g) The facility shall be subject to an annual inspection by a City Health Officer at owner's expense.

(h) In the CCD, F-1 sub-district, the following additional standards shall apply:

1. Building architecture shall be designed to reflect retail street-level architecture as defined in the City’s Comprehensive Plan, and detailed in the Comprehensive Plan Amendment entitled “Downtown Monticello Small Area Plan.”

2. Street level floor planning designed to accommodate use by or conversion to future use as retail uses.

3. Overnight animal boarding shall only be allowed as an accessory use to clinic services, and shall be situated so as to prohibit exposure, noise, or other nuisance conditions.

(32) Retail service.

(a) Repair of all goods shall occur within an enclosed building.

(b) Outdoor sales and display shall be conducted in accordance with this chapter.

(c) Off-street loading and delivery shall be in accordance with this chapter and shall not reduce the required off-street parking required for the site and use.

(d) Outdoor storage shall be prohibited.

(e) No process involved in a service operation shall produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.

(f) If adjacent to a residential property, the use shall require installation of a buffer yard in accordance with this chapter.

(F) Regulations for industrial uses.

(1) Automobile repair - major.

(a) Door opening to service area garage must not face street frontage.

(b) Vehicle storage area limited to 50% of floor space of the structure housing the auto body shop.

(c) All vehicles being serviced and all vehicle parts must be stored inside or in vehicle storage area.

(d) Vehicle storage area shall be enclosed by enclosure intended to screen the view of vehicles in storage from the outside. Enclosure shall consist of a six-foot high, 100% opaque fence designed to blend with the auto body shop structure and consisting of materials treated to resist discoloration.

(e) The floor of the vehicle storage area shall consist of asphalt or concrete paving.

(f) All work on vehicles or vehicle parts shall be conducted within an enclosed building.

(g) No conditional use permit shall be granted for an auto body shop located within 600 feet of a residential zone existing at the time the conditional use permit is granted.

(2) Bulk fuel sales and storage.

(a) Gas storage shall be limited to quantities not exceeding 500,000 cubic feet and not located within 100 feet from any lot line.

(b) Gas storage with quantities not exceeding 200 cubic feet, if the pressure is greater than 100 pounds per square inch, shall not be located within 50 feet of any lot line.

(3) Commercial self-storage facilities.

(a) Site layout.

1. The minimum lot area shall be at least two acres.

2. If separate buildings are constructed, there shall be a minimum separation of ten feet between buildings.

(b) Operation.

1. The only commercial uses permitted on-site shall be the rental of storage bays and the pickup and deposit of goods or property in cold storage. Storage bays shall not be used to manufacture, fabricate, or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.

2. Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

3. No more than one security or caretaker quarters may be developed on the site, and shall be integrated into the building's design.

4. Except as otherwise authorized in this division, all property stored on the site shall be enclosed entirely within enclosed buildings.

5. If buildings or driving lanes are within 200 feet of a residential dwelling, the hours of public access to the self-storage use shall be restricted to the hours between 6:00 a.m. and 10:00 p.m.

(c) Parking and circulation.

1. The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist, at a minimum, of standard directional signage and painted lane markings with arrows.

2. Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

3. All access ways shall be paved with asphalt, concrete, or comparable paving materials.

(d) Building appearance.

1. Garage doors serving individual storage units shall be perpendicular to a public or private street so as to not be visible from adjacent streets.

2. Outdoor lighting shall be the minimum necessary to discourage vandalism and theft, and shall be provided in accordance with § 153.063, Exterior Lighting.

3. The exterior facades of all structures facing a public street shall adhere to § 153.070, Building Materials.

4. Windows may not exceed 20% of any street-facing façade and shall not be reflective.

5. A maximum of two colors (excluding roof colors) shall be used on wall facades visible from off-site areas. Colors shall be neutral, and shall not be used to call attention to the use.

6. Perimeter or exterior walls visible from a public street or detached residential dwelling shall not include metal as a primary material.

7. All mechanical equipment and dumpsters shall be fully screened from off-site views.

(e) Fencing. All areas adjacent to a street frontage not occupied by a building shall include fencing designed in accordance with the following standards:

1. Fences shall be no shorter than six feet or taller than eight feet.

2. Fencing shall be masonry, wrought iron, steel, or aluminum and shall be painted or vinyl coated with colors that complement the buildings.

3. Chain link fencing is prohibited except where the use abuts lots with a business zoning designation, but in no instance shall chain link fencing be visible from a public street.

4. Metal fences shall include brick pilasters or supports located with consistent on-center spacing.

5. Wooden or chain link entry gates into the use are prohibited.

(4) Contractors yard – temporary.

(a) Temporary contractor's yards shall be allowed only by interim use permit, subject to the standards of § 153.028(E).

(b) Temporary contractor's yards shall be accommodated only in association with the construction of public infrastructure projects on public property, rights-of-way, or public easements.

(c) Temporary contractor's yards shall be located only on property directly abutting a state or federal highway, and shall minimize use of local streets.

(d) Such yards shall provide haul routes for approval by the City Engineer.

(e) Such yards shall provide adequate securities, as determined by the City Council, for the restoration of any municipal infrastructure damaged due to the operation of the yard.

(f) Such yards shall provide, as a condition of their permit, for adequate stormwater management, dust control, traffic control, and other requirements of the City Engineer.

(g) Interim use permits for temporary contractor's yards shall include a restoration plan ensuring the restoration of the property to a condition meeting the zoning and nuisance standards of the city.

(5) Extraction of materials.

(a) All regulations in this chapter shall be met.

(b) Plans shall be provided to illustrate how the land will be left in a useable condition upon cessation of extraction activities, shall prove that the finished grade will not adversely affect the surrounding land or future development of the site on which the mining is being conducted, and the route of trucks moving to and from the site.

(c) The interim use permit authorizing the extraction of materials shall regulate:

1. The type(s) of material being mined on the site;

2. A program for rodent control;

3. A plan for fire control and general maintenance of the site;

4. Controls for vehicular ingress and egress, and for control of material disbursed from wind or hauling of material to or from the site;

5. A calendar of specific dates when mining operations will be conducted, including specific beginning and ending dates; and

6. The submission of a surety by the applicant in an amount determined by the Community Development Department to be equal to 100% of the value of the cost of restoring land whereupon mining is to occur and repairing the degradation of roadways used to transport soils.

(d) On-site sales may be allowed as part of the interim use permit subject to all conditions established by the City Council to ensure the health, safety, and welfare of those visiting the site and of surrounding property owners.

(e) For extraction of materials under this section within the B-3 and B-4 zoning districts, no such permit shall be issued except where:

1. The city has an interest in the subject property ownership;

2. The city is conducting the extraction under a contract with the fee title owner or representative; or

3. The city approves such a permit for another government agency and/or its contractor for a public project.

(f) In the B-3 and B-4 Districts, and at the city's sole discretion, the IUP under this section may include screening, concrete mixing, asphalt plant operation, or other activities utilizing the raw materials being extracted from the site, provided the city finds that no adverse impact on adjoining property use will occur, including, but not limited to, noise, odors, dust, or other particulate matter.

(g) For the purposes of this section, mining or excavation shall mean solely the removal of minerals, including sand, stone, clay, gravel, or soil in

quantities of more than 100 cubic yards, and hauling of said materials from the site. For quantities of less than 100 cubic yards, or for projects that extract and relocate the materials on the same project site regardless of quantity, administrative grading permits may be issued without need for an IUP.

(6) General warehousing.

(a) The use shall be located at least 500 feet from any residential district, school, or day care center.

(b) The use shall not locate storage areas within a required setback or perimeter buffer.

(c) The use shall locate outdoor storage areas to the rear of the principal structure. All such outdoor storage shall be screened from view of adjacent properties in conformance with the requirements of § 153.060(I).

(d) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(e) The use shall have direct access onto an arterial or collector roadway.

(7) Heavy manufacturing.

(a) The use shall be located at least 500 feet from any residential district, school, or day care center.

(b) The use shall locate outdoor storage areas to the rear of the principal structure and be screened with a fence or wall in accordance with § 153.060(I). The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(c) The use shall be designed to ensure property functioning of the on-site transportation circulation system.

(d) The use shall have direct access onto an arterial or collector roadway.

(8) Industrial services.

(a) The entire site other than that taken up by a building, structure, or plantings shall be paved.

(b) A drainage system subject to the approval of the Community Development Department shall be installed.

(c) The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with § 153.063.

(d) When abutting a residential use, the property shall be screened with an opaque buffer (Table 4-2, Buffer Type "D") in accordance with § 153.060(G).

(e) Parking or car magazine storage space shall be screened from view of abutting properties and the public right of way in compliance with § 153.060(F).

(f) All signing and informational or visual communication devices shall be minimized and shall be in compliance with § 153.064.

(g) Provisions are made to control and reduce noise.

(h) No outside storage except as permitted or conditionally permitted in compliance with § 153.092(D)(26).

(i) If the business requires the use of large commercial vehicles or other large machinery, a specific area shall be designated for the exterior storage of the vehicles and equipment.

(9) Industrial self-storage facilities.

(a) Such facilities shall occupy no less than 2,000 square feet per individual storage unit in any complex or building.

(b) All individual units shall have overhead door access and service access separate from other units, and no common access shall be permitted.

(c) Such use shall be authorized by conditional use permit.

(d) Site layout:

1. The minimum lot area shall be at least two acres.

2. If separate buildings are constructed, there shall be a minimum separation of ten feet between buildings.

(e) Operation:

1. The only commercial uses permitted on-site shall be the rental of storage bays and the pickup and deposit of goods or property in cold storage. Storage bays shall not be used to manufacture, fabricate, or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.

2. Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

3. No more than one security or caretaker quarters may be developed on the site, and shall be integrated into the building’s design.

4. Except as otherwise authorized in this division, all property stored on the site shall be enclosed entirely within enclosed buildings.

5. If buildings or driving lanes are within 200 feet of a residential dwelling, the hours of public access to the self-storage use shall be restricted to the hours between 6:00 a.m. and 10:00 p.m.

(f) Parking and circulation.

1. The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist, at a minimum, of standard directional signage and painted lane markings with arrows.

2. Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

3. All access ways shall be paved with asphalt, concrete, or comparable paving materials.

(g) Building appearance.

1. Garage doors serving individual storage units shall be perpendicular to a public or private street so as to not be visible from adjacent streets.

2. Outdoor lighting shall be the minimum necessary to discourage vandalism and theft, and shall be provided in accordance with § 153.063, Exterior Lighting.

3. The exterior facades of all structures facing a public street shall adhere to § 153.070, Building Materials.

4. Windows may not exceed 20% of any street-facing façade and shall not be reflective.

5. A maximum of two colors (excluding roof colors) shall be used on wall facades visible from off-site areas. Colors shall be neutral, and shall not be used to call attention to the use.

6. Perimeter or exterior walls visible from a public street or detached residential dwelling shall not include metal as a primary material.

7. All mechanical equipment and dumpsters shall be fully screened from off-site views.

(h) Fencing. All areas adjacent to a street frontage not occupied by a building shall include fencing designed in accordance with the following standards:

1. Fences shall be no shorter than six feet or taller than eight feet.

2. Fencing shall be masonry, wrought iron, steel, or aluminum and shall be painted or vinyl coated with colors that complement the buildings.

3. Chain link fencing is prohibited except where the use abuts lots with a business zoning designation, but in no instance shall chain link fencing be visible from a public street.

4. Metal fences shall include brick pilasters or supports located with consistent on-center spacing.

5. Wooden or chain link entry gates into the use are prohibited.

(i) Open storage. Open storage of recreational vehicles and travel trailers of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:

1. No outdoor storage shall be visible from off-site views.

2. The storage shall occur only within a designated area, which shall be clearly delineated.

3. The size of the storage area shall not exceed 25% of the buildable area of the site.

4. Outdoor storage areas shall be located to the rear of the principal structure and be screened with a wooden fence or masonry wall at least eight feet high.

5. Storage shall not occur within the areas set aside for minimum building setbacks.

6. No dry stacking of boats shall be permitted on-site.

7. Vehicles shall be allowed on the premises for storage only.

(10) Land reclamation. The conditional use permit authorizing land reclamation shall regulate:

(a) A finished grade plan which will not adversely affect the adjacent land;

(b) The type of fill permitted;

(c) A program for rodent control;

(d) A plan for fire control and general maintenance of the site;

(e) Controls for vehicular ingress and egress, and for control of material disbursed from wind or hauling of material to or from the site;

(f) A calendar of specific dates when land reclamation operations will be conducted, including specific beginning and ending dates; and

(g) The submission of a surety by the applicant in an amount determined by the Community Development Department to be equal to 100% of the value of the cost of restoring land whereupon land reclamation is to occur and repairing the degradation of roadways used to transport soils.

(11) Light manufacturing. Light manufacturing uses may include a commercial component provided the following standards are met:

(a) The commercial component is directly related to the products being created by the light manufacturing use.

(b) The commercial component shall not exceed 30% of the gross floor area of the principal use.

(12) Machinery/trucking repair & sales and industrial services.

(a) A drainage system subject to the approval of the Community Development Department shall be installed.

(b) The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with § 153.063.

(c) When abutting a residential use, the property shall be screened with an opaque buffer (Table 4-2, Buffer Type “D”) in accordance with § 153.060(G).

(d) Parking or car magazine storage space shall be screened from view of abutting residential districts in compliance with § 153.060(F).

(e) All signing and informational or visual communication devices shall be minimized and shall be in compliance with § 153.064.

(f) Provisions are made to control and reduce noise.

(g) Any such facility shall include a principal building of no less than 30,000 square feet in floor area. The square footage shall be increased by 15% of each acre of the parcel size above five acres.

(h) Additional accessory buildings related to the principal use may be provided on the site as a part of essential operations of this use without the need for PUD approvals but shall be limited to no more than 15% of the

gross square footage of the principal use. Leasing of such buildings to other business entities or operations would require the processing of a PUD per § 153.028(O).

(i) Any outdoor storage (separate from approved sales and display area) of vehicles and/or equipment awaiting repair accessory to the principal use shall be limited to an area of the site no greater than the footprint of the principal building.

(j) Any outdoor storage of vehicles and/or equipment awaiting repair, repair vehicles and/or equipment must be kept on a paved surface such as bituminous or concrete, screened from view of adjoining public rights-of-way and residentially zoned property. Such outdoor storage area must be designated on an approved site plan. Sites utilizing heavy equipment shall rely on reinforced concrete to ensure long-term durability of the paved surface.

(k) Any outdoor display of for-sale vehicles or equipment must be paved with a hard surface such as bituminous or concrete and occupy an area of the site no greater than 200% of the footprint of the principal building, not including areas dedicated to required parking and general circulation on the site. Such outdoor display area must be designated on an approved site plan.

(l) Sites utilizing heavy equipment shall rely on reinforced concrete to ensure long-term durability of the paved surface.

(m) All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.

(n) If the business repairs semi-trucks or other large machinery, a specific area shall be designated for the exterior storage of the things being repaired and/or other vehicles and equipment accessory and incidental to the vehicle or machinery being repaired or serviced.

(13) Production breweries and micro-distilleries. Production breweries and micro-distilleries shall be allowed as a permitted use in the I-1 and I-2 District, provided that:

(a) The owner of the brewery qualifies for and receives a brewer license and a malt liquor wholesale license from the State of Minnesota, according to M.S. § 340A.301, as it may be amended from time to time.

(b) Total production of malt liquor may not exceed 250,000 barrels annually.

(14) Production breweries and micro-distilleries with accessory taproom or cocktail room. Production breweries and micro-distilleries with accessory taproom or cocktail room shall be allowed by conditional use permit in the IBC, I-1 and I-2 Districts, provided that:

(a) The facility is located in an area that includes and/or serves commercial traffic.

(b) The facility is not located within 500 feet of a residential zoning district.

(c) The owner of the brewery qualifies for and receives a brewer license and a malt liquor wholesale license from the State of Minnesota, according to M.S. § 340A.301, as it may be amended from time to time.

(d) Total production of malt liquor may not exceed 250,000 barrels annually.

(15) Recycling and salvage center.

(a) The center shall be on a parcel with an area of at least four acres.

(b) The center shall be located at least 250 feet from any residential district, school, or day care.

(c) Except for a freestanding office, no part of the center shall be located within 25 feet of any property line, or the minimum buffer yard setbacks required in § 153.060(G), whichever requires the greater setback.

(d) All recycling activities and storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of recycling activities or a storage area can be seen from rights-of-way or adjacent lots.

(e) All outdoor storage areas shall be surrounded by a solid fence or wall that is at least eight feet high, located no less than 30 feet from any public right-of-way, and located no less than 15 feet from any adjacent property.

(f) Recyclable materials shall be contained within a leak-proof bin or trailer, and not stored on the ground. In the alternative, the outdoor storage of recyclable materials may occur on the ground, provided that the ground is surfaced with a suitable material acceptable to the city to control dust and drainage in a manner that is consistent with the city’s stormwater management requirements, and is fenced and screened to ensure that no storage is taller in elevation than the height of the screening.

(g) The facility shall at all times comply with the terms of the MCPA permitting for the site, and shall promptly comply with any order of mitigation or correction issued by the MPCA when an inconsistency or

violation is found. The city may require additional improvements to protect the city's stormwater management system resulting from operation of the facility, including but not limited to, additional stormwater treatment, reporting, and notifications as appropriate.

(h) There shall be no collection or storage of biodegradable wastes (as defined by the PCA) on the site. The storage of hazardous wastes shall be, at all times, found to be in compliance with the requirements and permitting of the MPCA as applicable to the site and the material in question.

(i) Space shall be provided to park each commercial vehicle operated by the center.

(j) The facility shall be administered by on-site persons during the hours the facility is open.

(k) The site shall be maintained free of fluids, odors, litter, rubbish, and any other non-recyclable materials. The site shall be cleaned of debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present.

(l) Noise levels shall be controlled in accordance with § 153.091(A)(2)(e).

(m) Signage shall include the name and phone number of the facility operator and indicate any materials not accepted by the center.

(n) Access to the center shall be from a collector or arterial street.

(o) No dust, fumes, smoke, vibration or odor above ambient level shall be detectable on abutting properties.

(16) Truck or freight terminal.

(a) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing, conforming buildings or areas as to cause impairment in property values or constitute a blighting influence within the district in which the proposed use is located.

(b) Parking areas shall be screened from view of abutting residential districts and public streets in compliance with § 153.060(I). Trucks and trailers stored on the site shall be screened from adjoining residential areas and public streets with a combination of trees, shrubs, and fencing to ensure that no view of the trailers is possible from abutting residential property to a height of no less than 12 feet.

(c) The entire site, other than that taken up by a building, structure, or plantings, must be paved with a hard surface such as bituminous or concrete sites utilizing heavy equipment shall rely on reinforced concrete to

ensure long-term durability of the paved surface. All surfaces shall be developed with a stormwater management system approved by the City Engineer.

(d) The site shall meet minimum lot dimension requirements of the District.

(e) No outside storage except as permitted or conditionally permitted in compliance with § 153.092(D)(26).

(f) Parking areas accessible to the public, including customers and employees shall be paved.

(g) No more than 6,000 square feet of the site shall be devoted to the storage, parking, and/or circulation of semi-tractors and trailers, as illustrated on a site plan submitted in connection with an application for a conditional use permit.

(h) All service activities shall occur within the principal building or approved accessory buildings.

(17) Waste disposal and incineration.

(a) Disposal must be in accordance with Minnesota Pollution Control Agency regulations.

(b) The facility must secure applicable local, county, state, and/or federal permits.

(18) Wrecker services.

(a) No portion of any salvage yard or junkyard shall be located within 500 feet of any residence district.

(b) All outside storage in such yards shall be enclosed by a sight-obscuring fence of at least eight feet in height, which fence and the materials used to construct it shall be approved of by the city.

(c) No vehicles or junk shall be dismantled or stored within the 100-year floodplain.

(d) Upon receiving a motor vehicle which will not be repaired, the battery shall be removed and the engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable federal and state laws, rules, and regulations. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.

(e) To reduce noise, all dismantling of motor vehicles shall take place during timeframes deemed reasonable by the city.

(f) No vehicle or junk shall be dismantled or stored within 300 feet of any water body or inland wetland, regardless of size.

(g) No vehicles or junk shall be stored within 300 feet from the property line of any school, church, public playground, public park or cemetery or within ordinary view from the public facility.

(h) No vehicles or junk shall be dismantled or stored within 300 feet of a well that serves as a public or private water supply unless such well serves the business.

(i) No vehicles, junk or parts of other items shall be stored closer than 100 feet of any property line.

(Ord. 762, passed 8-23-2021; Ord. 771, passed 2-28-2022; Ord. 780, passed 7-25-2022; Ord. 791, passed 11-14-2022; Ord. 797, passed 2-13-2023; Ord. 799, passed 2-27-2023)

§ 153.092 ACCESSORY USE STANDARDS.

(A) Purpose. This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

(B) General standards and limitations for accessory uses and structures.

(1) Compliance with chapter requirements. All accessory uses and accessory structures shall conform to all applicable requirements of this chapter. The provisions of this section establish additional standards and restrictions for particular accessory uses and structures.

(2) General standards. All accessory uses and accessory structures shall meet the following standards:

(a) Directly serve the principal use or structure;

(b) Be customarily accessory and clearly incidental and subordinate to the principal use and structure;

(c) Be subordinate in area, extent, and purpose to the principal use or structure;

(d) Be owned or operated by the same person as the principal use or structure;

(e) Be located on the same lot as the principal use or structure, subject to the public improvement project exception as regulated by § 153.106(D)(1);

(f) Not be constructed or established prior to the time the principal use or structure is constructed or established, subject to the public improvement project exception as regulated by § 153.106(D)(1);

(g) Together with the principal use or structure, not violate any standards of this chapter;

(h) Not be located within platted or recorded easements or over underground public utilities without an encroachment agreement issued by the Community Development Department;

(i) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building either directly or by an enclosed passageway. Such accessory buildings shall adhere to requirements for the principal building;

(j) If a principal building is proposed to be removed with no immediate replacement, all accessory structures shall also be removed;

(k) Not constitute a combination use, which is the combination of two principal uses (combination uses will not meet the above standards in terms of being subordinate or providing service to the principal use).

(3) Location of accessory uses or structures. Except for fences and walls, the following standards shall apply to all accessory structures:

(a) All accessory structures, except as may be specifically denoted, shall be located at least six feet from all lot lines, and at least the minimum distance from public rights-of-way as denoted in the individual zoning district regulations. All such structures must meet applicable building codes related to fire separation distance.

1. A side yard setback of 20 feet shall be maintained from property lines abutting public streets.

(b) Detached accessory buildings shall be six feet or more from any other building or structure on the same lot.

(c) Detached accessory structures shall not be located beyond the front building line established by the principal structure, with the exception of commercial canopies and signs, which must adhere to regulations of this chapter.

(4) Maximum height.

(a) Detached accessory buildings shall not exceed 15 feet in height except in the I-1 and I-2 districts.

(b) No accessory structure shall exceed the height of the principal structure unless specifically allowed by this chapter.

(5) Maximum number of accessory structures. In all residential zoning districts, the following limitations on accessory structures shall apply:

(a) No more than one private, detached major accessory building may be erected for each dwelling;

(b) No more than one private, detached minor accessory building may be erected for each dwelling;

(c) Additional major or minor accessory buildings may be erected if approved via a conditional use permit pursuant to § 153.028(D).

(6) Temporary family health care dwellings opt out. The City of Monticello opts-out of the requirements of M.S. § 462.3593, as it may be amended from time to time, which defines and regulates temporary family health care dwellings.

(C) Table of permitted accessory uses.

(1) Listed accessory uses. Table 5-4, lists the allowed types of accessory uses and structures within each zoning district. If a specific accessory use is allowed in a district, the column underneath the district is marked with a "P." If a specific accessory use is conditionally permitted in a district, the column underneath the district is marked with a "C." If the accessory use or structure is not allowed in a district, the column is shaded. If there is a reference contained in the column entitled "additional requirements", refer to the cited section(s) for additional standards that apply to the specific accessory use.

(2) Interpretation of unidentified accessory uses.

(a) The Community Development Department shall evaluate applications for accessory uses that are not identified in Table 5-4 on a case-by-case basis using the following standards:

1. The definition of “accessory use” (see § 153.012 – Definitions) and the general accessory use standards and limitations established in § 153.092(B);

2. The additional regulations for specific accessory uses established in § 153.092(D), Specific Standards for Certain Accessory uses;

3. The purpose and intent of the base and overlay districts in which the accessory use or structure is located;

4. Any potential adverse impacts the accessory use or structure may have on other lands in the area as compared to other accessory uses permitted in the district; and

5. The compatibility of the accessory use or structure, including the structure in which it is housed (if applicable), with other principal and accessory uses permitted in the district.

(b) The decision of the Community Development Department to permit or deny an unlisted use or structure is final, but may be appealed pursuant to § 153.028(H).

(3) Table of permitted accessory uses and structures.

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

CCD

P C D

I B C

I 1

I 2

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

CCD

P C D

I B C

I 1

I 2

Accessory building - minor

P

P

P

P

P

P

P

P

P

P

P

P

P

See Ord. 776

P

P

P

§ 153.092(D)(1)

Accessory building - major

P

P

P

P

P

P

P

C

P

P

P

P

P

P

P

P

P

§ 153.092(D)(2)

Adult use - accessory

C

§ 153.092v(D)(3)

Agricultural buildings

P

§ 153.092(D)(4)

Air conditioning units

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.060(I)

Automated teller machines (ATMs)

P

P

P

P

P

P

P

P

§ 153.092(D)(5)

Automobile repair - major

C

§ 153.092(D)(6)

Automobile repair - minor

C

C

§ 153.092(D)(7)

Boarder(s)

P

P

P

§ 153.092(D)(8)

Bulk fuel sales/storage

P

P

P

C

C

C

§ 153.092(D)(9)

Cocktail room (retail sales accessory to micro-distillery)

C

C

C

C

C

C

§ 153.092(D)(10)

Co-located wireless telecommunicat i-ons antennae

C

C

C

C

C

C

C

C

C

C

C

C

C

C

C

C

§ 153.072(E)

Columbarium (accessory use to cemeteries)

P

P

P

P

P

P

P

§ 153.092(D)(11)

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

PCD

I B C

I 1

I 2

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

PCD

I B C

I 1

I 2

Commercial canopies

P

P

P

P

P

See Ord. 776

P

P

P

§ 153.092(D)(12)

Commercial transmission/ reception antennae/ structures

C

C

C

C

C

C

§ 153.072(D)

Donation drop-off containers

P

P

§ 153.092(D)(13)

Drive- through services

C

C

C

C

C

C

C

§ 153.092(D)(14)

Entertainmen t/

recreation - outdoor commercial

C

C

C

C

§ 153.092(D)(15)

EV charging facility, 2 or fewer stations

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

EV charging facility, 3-6 stations

P

P

P

P

P

C

C

P

P

P

EV charging facility, 7+ stations

C

C

C

C

C

C

C

C

C

Fences or walls

P

P

P

P

P

P

P

P

P

P

P

P

P

See Ord. 776

P

P

P

§ 153.062

Greenhouse/

conservatory (non- commercial)

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.092(D)(16)

Heliports

C

C

C

C

C

§ 153.092(D)(17)

Home occupations

P

P

P

P

P

P

P

P

P

P

§ 153.092(D)(18)

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionall y Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

PCD

I B C

I 1

I 2

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionall y Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

PCD

I B C

I 1

I 2

Indoor food/

convenience sales

P

P

P

P

P

See Ord. 776

P

P

P

§ 153.092(D)(19)

Indoor storage

P

P

P

P

P

P

§ 153.092(D)(20)

Incidental light manufacturi ng

P

P

P

P

P

P

P

P

§ 153.092(D)(21)

Machinery/

trucking repair & sales

C

§ 153.092(D)(22)

Office

P

P

P

P

P

P

P

none

Off-street loading space

P

P

C

P

P

P

P

P

P

P

§ 153.068

Off-street parking

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.067

Open sales

P

C

C

C

§ 153.092(D)(23)

Operation and storage of agricultural vehicles, equipment, and machinery

P

§ 153.092(D)(24)

Outdoor seating - accessory to restaurant, bar, production brewery with taproom, microdistille ry with cocktail room, and/or brewpubs

P / C

P / C

P / C

P

/

C

§ 153.092(D)(25)

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P

C

D

I B C

I 1

I 2

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P

C

D

I B C

I 1

I 2

Outdoor sidewalk sales & display (businesses)

P

P

P

P

P

See Ord. 776

P

P

P

§ 153.092(D)(26)

Outdoor

storage

P

P

P

P

P

P

P

P

P / C

P / C

Residential § 153.092(D)(27)(a)

Industrial § 153.092(D)(27)(b)

Park facility buildings & structures (public)

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.092(D)(28)

Private amateur radio

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.092(B)

Private receiving antennae and antenna support structures

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.072(C)

Retail sales of goods (as part of an office or industrial use)

P

P

P

P

P

P

C

C

§ 153.092(D)(29)

Shelters (storm or fallout)

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.092(D)(30)

Sidewalk café

P

P

P

P

City Code

Sign(s)

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.092(D)(31)

Solar energy system

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.092(D)(32)

Swimming pool

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.092(D)(33)

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P

C

D

I B C

I 1

I 2

TABLE 5-4: ACCESSORY USES & STRUCTURES BY DISTRICT

Use Types

“P” = Permitted

“C” = Conditionally Permitted

“I” = Interim Permitted

Base Zoning Districts

Additional Requirements

A O

R A

R 1

R 2

T N

R 3

R 4

M H

B 1

B 2

B 3

B 4

C C D

P

C

D

I B C

I 1

I 2

Taproom (retail sales accessory to production brewery)

C

C

C

See Ord. 776

C

C

C

§ 153.092(D)(34)

Large trash handling and recycling collection area

P

P

P

P

P

P

P

P

P

P

P

P

§ 153.092(D)(35)

Wind energy conversion system, commercial

C

C

C

C

C

§ 153.092(D)(36)

Wind energy conversion system, non- commercial

C

C

C

C

C

C

C

C

C

C

C

C

C

C

C

C

C

§ 153.092(D)(37)

Wireless telecommun-

ications support structures

C

C

C

C

C

C

C

§ 153.062(E)

§ 153.062(F)

(D) Additional specific standards for certain accessory uses.

(1) Accessory building – minor.

(a) Minor accessory buildings do not require a building permit, but shall comply with all applicable zoning regulations.

(b) In the M-H district, one minor accessory building for storage of equipment and refuse is permitted for each manufactured home provided the accessory building can meet all required setbacks, and is designed of weather resistant material that will enhance the general appearance of the lot.

(2) Accessory building – major.

(a) In all residential districts except M-H, the following shall apply:

1. Size.

a. Except by conditional use permit issued pursuant to § 153.092(D)(3)(a)1.b. below, no detached accessory building shall exceed 10% of the rear yard of the parcel on which it is located, nor shall any combination of attached garage and detached accessory building exceed the following maximum area, whichever is less:

(i) 1,200 square feet; or

(ii) The gross square footage of the principal building footprint.

b. The size limitations for accessory building area listed in § 153.092(D)(3)(a)1.a. above may be increased, up to a maximum square footage of 1,500 square feet, by the issuance of a conditional use permit when the following conditions are found to exist:

(i) Accessory building space is to be utilized solely for the storage of residential personal property of the occupant of the principal dwelling, and no accessory building space is to be utilized for commercial purposes.

(ii) The parcel on which the accessory building is to be located is of sufficient size such that the building will not crowd the open space on the lot.

(iii) The accessory building will not be so large as to have an adverse effect on the architectural character or reasonable residential use of the surrounding property.

(iv) The accessory buildings shall be constructed to be similar to the principal building in architectural style and building materials.

2. Private garages.

a. Private garages shall be used by the family or families residing upon the premises, except as follows:

(i) One-half of the private garage spaces on the premises can be rented to non-residents of the property for private passenger vehicles and/or non-commercial vehicles, trailers, or equipment if sufficient off-street parking in full compliance with this chapter is provided elsewhere on the property.

b. No business, service, or industry shall be carried on within a private garage;

c. Private garages shall not be used for the storage of more than one commercial vehicle owned or operated by a resident per dwelling unit.

3. Accessory buildings, major, shall be required to meet the building materials standards as found in § 153.070(C) as applicable.

(b) In the M-H district, the standards of § 153.091(C)(4)(b)8. shall apply.

(c) In all business and industrial districts, commercial or business buildings and structures for a use accessory to the principal use is permitted provided that:

1. In all districts except I-2, such use shall not exceed 30% of the gross floor space of the principal use.

2. In the I-2 district, such use shall not exceed 40% of the gross floor space of the principal use.

(3) Adult use/accessory activities provided that:

(a) Activities classified as obscene as defined by M.S. § 617.241, as it may be amended from time to time, are not permitted and are prohibited.

(b) An adult use which does not qualify as an accessory use shall be classified as an adult use/principal.

(c) Adult use/accessory activities shall be prohibited from locating in any building which is also utilized for residential purposes.

(d) Adult use/accessory activities shall comprise no more than 10% of the floor area of the establishment in which it is located or shall comprise an area no greater than 100 sq. ft. of floor area in which it is located, whichever is smaller.

(e) Adult use/accessory activities shall be restricted and prohibited from access to minors by the physical separation of such items from areas of general public access:

1. Movie rentals. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation.

2. Magazines. Publications classified or qualifying as adult uses shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

3. Other use. Adult use/accessory activities not specifically cited shall comply with the intent of this section subject to the approval of the Zoning Administrator.

(f) Adult use/accessory activities shall be prohibited in establishments where liquor is served.

(g) Adult use/accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical, or other performance or exhibition presented to the general public where minors are admitted.

(4) Agricultural buildings. Agricultural buildings shall adhere to overlay and base zoning district requirements for maximum height, but may exceed the height of the principal structure in the A-O zoning district.

(5) Automated teller machines. Drive-up or drive-through ATMs shall be located in a manner that will not result in stacking of vehicles in a public right-of-way.

(6) Automobile repair – major.

(a) Door opening to service area garage must not face street frontage.

(b) All vehicles being serviced and all vehicle parts must be stored inside or in designated vehicle storage area.

(c) Repair of all vehicles shall occur within an enclosed building.

(d) Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25% of the buildable area of the lot, is located behind the front building line of the principal structure, and is screened with a wooden fence or masonry wall in accordance with § 153.062, Fences and Walls.

(e) The entire site other than that taken up by a building, structure, or plantings shall be surfaced with a material to control dust and drainage which is subject to the approval of the Community Development Department.

(f) No conditional use permit shall be granted for an auto repair shop - major located within 300 feet of a residential zone existing at the time the conditional use permit is granted.

(7) Automobile repair -- minor.

(a) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(b) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25% of the buildable area of the lot, is located behind the front building line of the principal structure, and is screened

with a wooden fence or masonry wall in accordance with § 153.062, Fences and Walls.

(c) Vehicles not being repaired but used as a source of parts shall be prohibited unless fully enclosed within a building or fully screened in accordance with division (b) above.

(d) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30-day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

(8) Boarders.

(a) Within the A-O zoning district, the boarding or renting of rooms shall be limited to two persons per dwelling unit.

(b) Within the R-1 zoning district, the boarding or renting of rooms shall be limited to one person per dwelling unit.

(9) Bulk fuel sales and storage.

(a) All accessory use bulk fuel storage must be associated with the principal activity on the site. In Industrial Districts, accessory fuel dispensing shall not be available for sale to the public.

(b) Accessory use bulk fuel storage tank containers shall be limited to 1,000 gallons.

(c) Accessory use bulk fuel storage may not be located within the required front yard setback.

(d) Accessory use bulk fuels storage facilities shall include one shrub landscaping planting per every ten feet of bulk fuel facility perimeter, planted in accordance with required safety clearances.

(e) Accessory use bulk fuel storage shall be setback ten feet from all property lines and 20 feet from any public right-of-way.

(f) Accessory use bulk fuel storage must include a containment structure and bollards for tank protection per applicable fire code or other regulations.

(g) Accessory use bulk fuel storage facilities shall comply with all MPCA and State Fire Marshal requirements, all other permit, testing and listing requirements, and all applicable codes and standards such as NFPA 58.

(h) Accessory use bulk fuel storage facilities located within the drinking water supply management area (DWSMA) must comply with the City Engineer's recommendations for site and containment arrangement.

(10) Cocktail rooms. Cocktail rooms shall be conditionally permitted as accessory uses only to a micro-distillery as a principal use and subject to those conditions found in § 153.091 for micro-distillery.

(11) Columbarium. Accessory use to cemeteries only. Subject to the following:

(a) Columbarium structures shall set back a minimum distance of 50 feet from all lot lines and public right-of-way.

(b) The principal use cemetery shall comply with all other applicable requirements of the zoning ordinance, with the exception of the requirement for distance from I-94.

(c) No portion of the columbarium shall exceed height requirements for accessory buildings in the district in which the structure is located.

(d) The columbarium shall be constructed of masonry materials for all exterior surfaces, with architectural metals and glass for details and openings only.

(12) Commercial canopies.

(a) Canopies shall not be internally illuminated.

(b) Lighting shall be recessed and down directional.

(13) Donation drop-off containers.

(a) No more than one container shall be located on a parcel.

(b) Be limited to one sign no more than four feet high and 16 square feet in area that displays the name and telephone number of the party responsible for the donation container.

(c) The container shall not block access to required parking spaces or parking lot aisles.

(d) The container shall not be located within 50 feet of a dwelling.

(14) Drive-through service.

(a) In general, all drive through service lanes shall adhere to the following:

1. Service provided by the drive through facility is accessory to an interior on-site service within the same building.

2. Drive-through facilities shall be located at least 200 feet from all residential zoning districts except R-3 and R-4.

3. Drive-through lanes shall be designed to avoid disruption of pedestrian and vehicular traffic flow, both on- and off-site.

4. Drive-through lanes shall not be located between the restaurant entrance and customer parking spaces whenever possible.

5. Landscaping and other site improvements are included which screen automobile stacking space from the public street.

6. Voice amplifiers used in conjunction with drive-thru services shall not be audible to adjoining residential areas.

7. Minimum stacking space shall be provided per the requirements of Table 5-5:

TABLE 5-5: REQUIRED STACKING SPACES FOR DRIVE-THROUGHS

Use or Activity [1]

Minimum Number of Stacking Spaces (per lane)

Measured From [2]

TABLE 5-5: REQUIRED STACKING SPACES FOR DRIVE-THROUGHS

Use or Activity [1]

Minimum Number of Stacking Spaces (per lane)

Measured From [2]

Automated teller machines (ATMs)

3

Teller machine

Financial institution

3

Teller window

Personal services (e.g. dry- cleaning)

4

Window

Restaurants

8 per order board

Pick-up window

Retail commercial uses (e.g. pharmacy)

4

Window

Specialty eating establishments - coffee shops

12

Window

Other

Uses not specifically listed shall have their stacking space minimums determined by the Community Development Department based on standards for comparable uses listed above.

[1]: See Table 5-1: Uses By District, and/or Table 5-4: Accessory Uses by District

[2]: Distance shall be measured from window where products are delivered when more than one window is used for the drive through service.

(b) Drive through service within the CCD district shall adhere to the following additional standards:

1. The principal building occupies no less than 40% of the property, exclusive of easements devoted to public pedestrian use or other outdoor public spaces.

2. The building, site, and signage meet the standards for the “CCD” district, and design review is conducted by the Planning Commission.

3. The proposed use demonstrates compatibility and consistency with the City’s Comprehensive Plan and Downtown Revitalization Plan.

(15) Entertainment/recreation – outdoor commercial.

(a) When abutting a residential use, the property shall be screened with at least a semi-opaque buffer (Table 4-2, Buffer Type “C”) in accordance with § 153.060(G).

(b) Adequate measures to contain the proposed activity on the subject site shall be provided.

(c) Dust and noise are controlled consistent with City Ordinance.

(16) Greenhouse/conservatory (non-commercial). Greenhouses or conservatories accessory to residential units shall not be used for commercial purposes.

(17) Heliports. Heliports shall be limited to hospitals which require such for responding to medical emergencies.

(18) Home occupations.

(a) Purpose. The purpose of this section is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding neighborhood. In addition, this section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily "more sensitive" home occupations so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

(b) Application. Subject to the nonconforming use provision of this chapter, all occupations conducted in the home shall comply with the provisions of § 153.092(D)(18). This section shall not be construed, however, to apply to home occupations accessory to farming.

(c) Exempted home occupations. Daycare home facilities shall be governed by the regulations for “group residential facilities” which are subject to the standards in § 153.091(C)(3).

(d) General provisions applicable to all home occupations. All home occupations shall comply with the following general provisions:

1. All home occupations shall comply with the provisions of the City Code.

2. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods.

3. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.

4. Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof and shall result in no incompatibility or disturbance to the surrounding residential uses.

5. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.

6. There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.

7. The home occupation shall meet all applicable fire and building codes.

8. All signage on the property shall conform to requirements for residential signs in § 153.064.

9. No home occupation shall be conducted between the hours of 10:00 p.m. and 7:00 a.m. unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.

10. No home occupation shall generate more traffic than one car for off-street parking at any given point in time.

11. If located in the CCD district, the home occupation must meet all requirements for a “permitted home occupation” enumerated in § 153.092(D)(18)(e) below.

(e) Specific requirements for permitted home occupations. Permitted home occupations may be conducted without any city approvals provided the provisions applicable to all home occupations [§ 153.092(D)(18)(d)] and the following additional provisions are all met:

1. Employees of the business who do not reside on the premises shall be prohibited from conducting any business activities whatsoever on the premises.

2. All permitted home occupations shall be conducted entirely within the principal building and may not be conducted in an accessory building.

3. No customer visits to the premises shall be permitted.

4. No deliveries other than those routinely made in a residential district (U.S. Mail, United Parcel Service, etc) shall be permitted.

5. The home occupation shall not be used as a work staging area whereby employees report to the home occupation site to receive work assignments for working elsewhere.

(f) Specific requirements for administrative home occupations.

1. Administrative home occupations may be established only after securing an administrative home occupation permit from the Community Development Department. Examples of home occupations allowed by permit include: art studio, dressmaking, secretarial services, foster care, professional offices and teaching with musical, dancing, and other

instructions which consist of no more than one pupil at a time and similar uses.

2. Administrative home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than that which is typically found in a dwelling; teaching which customarily consists of more than one pupil at a time; over-the-counter sale of merchandise produced off the premises, except for brand name products that are not marketed and sold in a wholesale or retail outlet.

3. All administrative home occupations shall comply with the provisions applicable to all home occupations [§ 153.092(D)(18)(d)] and the following additional provisions in order to obtain a permit:

a. No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for non-resident assistance from no more than one person, and that this exception would not compromise the intent outlined in § 153.092(D)(18)(a).

b. All administrative home occupations shall be conducted entirely within the principal building and may not be conducted in an accessory building.

c. Customer visits to the home occupation shall be arranged by appointment with no more than one customer scheduled to be on the premises at any given point in time.

d. No deliveries other than those routinely made in a residential district (U.S. Mail, United Parcel Service, etc) shall be permitted.

e. The home occupation shall not be used as a work staging area whereby employees report to the home occupation site to receive work assignments for working elsewhere.

(g) Specific requirements for conditionally permitted home occupations.

1. Conditionally permitted home occupations may be established only after securing a conditional use permit subject to the requirements of § 153.028(D). Examples of conditionally permitted home occupations include: barber and beauty services, photography studio, group lessons, saw sharpening, skate sharpening, small appliances and small engine repair and the like.

2. All conditionally permitted home occupations shall comply with the provisions applicable to all home occupations [§ 153.092(D)(18)(d)] and the following additional provisions in order to obtain a permit:

a. No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for non-resident assistance from no more than four people, and that this exception would not compromise the intent of § 153.092(D)(18).

b. The home occupations shall not create a parking demand in excess of that which can be accommodated on the premises as regulated by § 153.067, or five vehicles, whichever is less.

c. No vehicle on the premises shall be parked closer than 15 feet from the curb line.

d. Areas for stock-in-trade incidental to the performance of the service and equipment other than that which is typically found in a dwelling shall be identified on a site plan, and the applicant shall need to successfully demonstrate how such can be accommodated out of view from neighboring properties.

(h) Inspection. The city hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this section or any conditions additionally imposed.

(19) Indoor food/convenience sales. Indoor food/convenience sales occurring as an accessory use shall comply with the following standards:

(a) Size. The square footage used by food sales operations, including preparation, sales, and storage, but not including dining, shall not exceed 30% of the principal use.

(b) Location.

1. To the maximum extent practicable, food sales areas shall be internal to the principal use they serve.

2. In residence districts, such accessory uses shall be limited to schools, colleges, universities, hospitals, airports, bus stations, and other similar institutions permitted in the district.

(c) Entrances. Entrance to the food sales area shall be via the principal use it serves and shall not have dedicated off-street parking areas or signage.

(20) Indoor storage.

(a) The area used for storage shall not exceed 35% of gross floor area square footage of the principal use.

(b) Storage shall be related to the products being sold or offered by the principal use.

(c) If located within the CCD, storage accessory uses may be located on an adjacent or adjoining parcel within the CCD, subject to above regulations.

(21) Incidental light manufacturing.

(a) Light manufacturing or assembly are permitted accessory uses in all industrial zoning districts subject to the restrictions for the primary use outlined in this chapter.

(b) Light manufacturing or assembly of products in commercial zoning districts shall only be conducted if:

1. The manufacturing or assembly is related to the products being sold or offered by the principal use.

2. No less that 40% of the goods manufactured or assembled as part of the accessory use shall be sold in a retail outlet for the principal use.

3. The retail outlet for the principal use shall be used for display, consumption, sale and other retail activity related to the goods produced by the accessory use, and such retail activity (whether display, consumption and/or sale) must constitute a minimum of 50% of the gross floor area of the principle use.

4. The area used for light manufacturing or assembly activity shall not exceed 30% of the gross floor area of the principal use.

5. The light manufacturing or assembly shall be compatible with adjacent property owners, tenants, and civic institutions as well as proposed uses as found in the comprehensive plan.

6. The light manufacturing or assembly shall be very specific, and only be allowed in conjunction with a specific business activity (i.e. authorization for manufacturing monuments shall only be allowed as an accessory use to a monument shop. If the principal use changes to cell phone sales, the accessory use of manufacturing monuments shall cease).

(22) Machinery/trucking repair and sales and industrial services.

(a) The entire site other than that taken up by a building, structure, or plantings shall be surfaced with a material to control dust and drainage which is subject to the approval of the Community Development Department.

(b) A drainage system subject to the approval of the Community Development Department shall be installed.

(c) When abutting a residential use, the property shall be screened with an opaque buffer (Table 4-2, Buffer Type “D”) in accordance with § 153.060(G).

(d) Provisions are made to control and reduce noise.

(e) No other outside storage except as permitted or conditionally permitted in compliance with § 153.092(D)(26).

(f) If the business repairs semi-trucks or other large machinery, a specific area shall be designated for the exterior storage of the things being repaired and/or other vehicles and equipment accessory and incidental to the vehicle or machinery being repaired or serviced.

(23) Open sales. In commercial and industrial districts where open sales is conditionally permitted, the following standards shall apply:

(a) Outside services, sales and equipment rental connected with the principal uses is limited to 30% of the gross floor area of the principal use. This percentage may be increased through issuance of the conditional use permit.

(b) Outside sales areas are fenced or screened from view of residentially zoned areas and public right-of-way in compliance with § 153.060(I).

(c) All lighting shall be in compliance with § 153.063.

(d) Sales area is grassed or surfaced to control dust.

(e) Does not take up parking space as required for conformity to this chapter.

(24) Operation and storage of agricultural vehicles, equipment, and machinery. Vehicles, equipment, and machinery being stored shall be incidental to a permitted or conditionally permitted uses.

(25) Outdoor seating – accessory to restaurant, bar, production brewery with taproom, micro-distillery with cocktail room, and/or brewpubs.

(a) For all restaurants, restaurant/bars, production brewery with taproom, microdistillery with cocktail room, and/or brewpubs, if the establishment (building) or outdoor seating area is located within 300 feet of a residential zoning district, the following standards shall apply:

1. The use shall require authorization through a conditional use permit.

2. Primary access from local residential streets shall be prohibited.

(b) Restaurants, restaurant/bars, production brewery with taproom, microdistillery with cocktail room, and/or brewpubs having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:

1. The outdoor portions of the facility shall not operate after 10:00 p.m. unless a special event permit for such event has been approved by the City Council. Such a permit supersedes the provisions of City Code.

2. No noise or music shall be generated in any outdoor seating area adjacent to residential property after 9:00 p.m.

3. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

4. Outdoor seating shall be fenced and enclosed to control access to the area, with service only from the inside of the facility.

5. No outdoor seating area shall be located within 100 feet of any property containing single-family, two-family, or townhouse residential units.

6. Any outdoor seating area adjacent to residential property shall be fenced and fully screened from view of said residential property.

7. All lighting shall be hooded and light glare or reflection shall not be visible from adjoining residential property.

8. Fences are permitted for outdoor seating areas, provided such fence maintains 50% opacity within front yard areas.

(26) Outdoor sidewalk sales and display. Outdoor sidewalk sales and display areas associated with legally permitted retail uses shall:

(a) Not encroach into areas necessary for the safe ingress and egress into the retail structure;

(b) Maintain a minimum pedestrian walkway of at least five feet in width along the front of the display;

(c) Take place only on an improved dustless surface;

(d) May not take up required parking;

(e) The area of the site devoted to sidewalk sales and display under this section shall not exceed 5% of the gross floor area of the principal use. Sidewalk sales and display which exceed 5% of the gross floor area of the principal use may be allowed by conditional use permit.

(27) Outdoor storage.

(a) In all zoning districts, all materials and equipment, except as specifically denoted in this chapter, shall be stored within a building or fully screened so as not to be visible from adjoining properties except for the following:

1. Clothes line pole and wire.

2. Recreational equipment and vehicles, subject to off-street parking regulations in § 153.067.

3. Construction and landscaping material currently being used on the premises.

4. Off-street parking of passenger vehicles, emergency vehicles and small commercial vehicles in residential areas, unless otherwise required to be screened according to § 153.067.

5. Propane tanks, fuel oil tanks, and other similar residential heating fuel storage tanks which do not exceed 1,000 gallons in capacity and shall not be located within five feet of any property line.

6. Wood piles in which wood is stored for fuel provided that not more than ten cords shall be stored on any property. A cord shall be four-feet by four-feet by eight-feet.

7. All wood piles shall be five feet or more from the rear and side yard property lines and shall be stored behind the appropriate setback line in front yards.

8. Solar energy systems.

9. Wind energy conversion systems.

(b) In the I-1 and I-2 districts, the following shall apply:

1. When abutting a zoning district or use other than industrial, the outdoor storage use shall require authorization through a conditional use permit following the provisions of § 153.028(D).

2. The storage area shall be located within the rear yard, except that an outdoor storage area may also include that area between the front building line and the rear yard along the interior lot side. Storage may not be located beyond the side building line on the street side of a corner lot. On a double-fronting lot, outdoor storage may be located in the side yard only.

3. In the I-1 District, outdoor storage shall be limited to 50% of the gross square footage of the principal building. Storage may be increased up to 100% of the gross square footage of the principal building by conditional use permit.

4. In the I-2 District, outdoor storage shall be limited to an area not to exceed the gross square footage of the principal building.

5. In the I-1 District, outdoor storage areas shall meet the minimum building setback from all side and rear property lines per the requirements of this chapter and when adjacent to zoning districts or uses other than industrial, shall be located a minimum of 50 feet from the adjacent property line.

6. In the I-2 District, outdoor storage shall be setback ten feet from all side and rear property lines and when adjacent to zoning districts or uses other than industrial, shall be located a minimum of 50 feet from the adjacent property line.

7. The area is fenced and screened from view of neighboring uses and from the public right-of-way in compliance with this section.

a. In the I-1 district, screening shall consist of masonry walls or fencing constructed of wood or vinyl and shall provide for 100% opacity. Such fences or walls shall meet all other requirements of § 153.062.

b. In the I-2 District, metal fences may be permitted when the materials have been recycled and reprocessed to resemble new building materials and are designed for use as a fencing material, and when such materials are designed to resemble allowed materials as listed in § 153.062(J)(1).

c. Additional landscaping of one evergreen tree per six feet of linear fenceline is required to be planted along the exterior of outdoor storage area in conformance with § 153.060. Trees may be staggered along fenceline.

d. Fences and walls shall not exceed 15 feet in height as measured from the existing grade to the top of the fence panel.

e. Height of storage may not exceed the screening wall or fence, or the height of required landscaping.

8. Outdoor storage shall be allowed only on improved surface of asphalt or concrete.

9. Storage in shipping containers shall be prohibited unless such storage occurs within the screened outdoor storage area.

10. There shall be no storage of hazardous waste, as defined by the Minnesota Pollution Control Agency.

11. Exterior storage areas shall comply with all applicable fire codes and no portion of the outdoor storage shall block access to hydrants, fire sprinklers, or other fire-fighting equipment.

12. Noise shall be controlled consistent with the standards of this chapter.

13. All lighting shall be in compliance with § 153.063.

14. Does not take up parking space as required for conformity to this chapter.

15. Outdoor storage areas shall comply with all requirements for grading, drainage, stormwater management and erosion control per § 153.069.

(28) Park facility buildings and structures. Limitations on number and size for accessory buildings and structures shall not apply to active or passive public park facilities.

(29) Retail sales of goods (as part of an office or industrial use).

(a) Location:

1. All sales are conducted indoors within a clearly defined area of the principal building reserved exclusively for retail sales. Said sales area must be physically segregated from other principal activities in the building.

2. The retail sales area must be located on the ground floor of the principal building.

(b) Sales area. The retail sales activity shall not occupy more than 15% of the gross floor area of the building.

(c) Access. The building where such use is located is one having direct access to a collector or arterial level street without the necessity of using residential streets.

(d) Hours. Hours of operation are limited to 8:00 a.m. to 9:00 p.m. The provisions of this section are considered and satisfactorily met.

(30) Shelters (storm or fallout). Storm and fallout shelters shall not alter the character of the premises with respect to the primary use as permitted in the district.

(31) Sidewalk café.

(a) Sidewalk cafes shall be subject to the requirements of the City Code.

(32) Sign(s). All signs within the city shall comply with the finishing standards contained in § 153.064, Signs.

(33) Solar energy systems.

(a) All solar energy systems.

1. All solar energy systems shall be operable and maintained in good repair.

2. Solar energy systems shall meet all required setbacks and height requirements of the underlying zoning district.

3. Solar energy systems shall be an integral part of the structure to which they are attached.

4. As a means of evidencing existing solar access conditions prior to installation, the owner of a solar energy system may file notarized photographs of the subject area with the Community Development Department prior to installation of said system.

5. Solar energy systems shall be allowed on roofs of principal and accessory buildings, provided other requirements of this section are met.

6. Solar energy systems shall be designed to minimize glare with adequate screening and/or coatings, as appropriate.

7. Solar energy systems shall be located in such a way as to be screened from visibility of the public right-of-way, or shall be integrated into the architecture of the structure so as to be visually inconspicuous.

8. Ground-mounted solar energy systems shall be located only in the rear yard of residential property, and shall not occupy an area more than 20% of the size of the perimeter foundation of the principal building.

(b) Solar energy systems in Business (B) and Industrial (I) districts and the CCD District.

1. Solar energy systems in the B, I, and CCD Districts shall comply with the provisions of § 153.092(D)(33)(a)1. through 4.

2. Roof-mounted solar energy systems in these districts shall be allowed as permitted accessory uses on principal and accessory buildings, provided such systems do not extend more than six feet above the height of the roof where they are mounted.

3. Ground mounted solar energy systems in these districts shall be allowed by conditional use permit, and together with accessory buildings, shall not exceed an area of any parcel greater than that allowed for accessory buildings in the applicable zone.

4. Ground mounted solar energy systems in these districts shall be allowed only when the property owner can show that roof-mounted systems are not feasible due to building structural issues.

(34) Swimming pools.

(a) All swimming pools, hot tubs, spas, and other water tanks exceeding 24 inches in depth must be fenced in accordance with the provisions of § 153.092(D)(34)(b) below.

(b) Residential swimming pool fences shall be constructed as follows:

1. Residential swimming pool fences must be at least 48 inches in height. The fence must not permit the passage of a four-inch sphere through openings in the fence. Fences must be constructed of durable, corrosion- and decay- resistive materials. Openings below the fence to grade must not exceed four inches.

2. Where an above-ground pool structure has walls that are at least four feet in height, the pool wall may serve to meet the fencing requirements; however, the access to the pool must provide equivalent protection to prevent unauthorized entry.

3. Fences for swimming pools must include a self-closing, self-latching device on all gates. Latches must be installed at least three feet six inches above grade. Gates must not exceed four feet in width and must meet the same construction requirements as fences. You must provide temporary fencing during installation if your yard is not fenced. Building permits are required for fences exceeding six feet in height.

(c) Commercial swimming pool fences shall be not less than five feet in height and constructed as required by the Minnesota Department of Health.

(d) In addition to the requirements above, all swimming pools shall adhere to the City Code requirements for swimming pools outlined in City Code.

(35) Taprooms. Taprooms shall be conditionally permitted as accessory uses only to production brewery as a principal use and subject to those conditions found in § 153.091.

(36) Trash handling and recycling collection area.

(a) Multiple-family structures with more than four dwelling units shall adhere to the following:

1. All large trash handling and recycling collection area(s) shall be located within the principal structure and be totally screened from public view by the principal building.

2. Compactors that are attached to the principal structure shall be totally screened from eye level view from public streets and adjacent properties by a screening wall constructed of the same building material as the principal structure.

(b) Trash handling and recycling collection area(s) serving commercial and industrial uses shall be subject to the following standards:

1. Depicted on site plans. The location and configuration of screening for large trash handling and recycling collection areas shall be depicted on all required landscaping plans.

2. Screening configuration.

a. Large trash handling and recycling collection areas shall be fully screened from adjacent properties.

b. In cases where access to large trash handling and recycling face a public right-of-way, the access way shall be screened with an opaque gate. Chain link shall not be used for such gates.

c. Compactors that are attached to the principal structure shall be totally screened from eye level view from public streets and adjacent non-industrial properties by a screening wall constructed of the same building material as the principal structure.

3. Setbacks.

a. Large trash handling and recycling shall meet the required setbacks for structures as required in the underlying zoning district.

b. In all cases, large trash handling and recycling collection areas shall be at least six feet from a side or rear lot line, and shall not be located within front yards or corner side yards.

4. Design materials. If a wall or detached accessory structure is used to screen or define a large trash handling and recycling collection area, the building materials used for the wall or accessory structure shall be compatible with the principal structure and be readily served through swinging doors.

5. Ground surface requirements. Areas intended for large trash handling and recycling collection areas shall be surfaced with concrete that meets or exceeds minimum city standards.

6. Drainage. Eating establishments and other uses that produce significant amounts of liquid waste shall configure areas intended for large trash handling and recycling collection areas to drain to the sanitary sewer system through grease traps or similar devices as required by the Community Development Department.

(37) Wind energy conversion system – commercial. All commercial WECS systems shall adhere to the requirements of § 153.071.

(38) Wind energy conversion system – non-commercial.

(a) Non-commercial WECS systems shall have a total height of less than 200 feet.

(b) All non-commercial WECS systems shall adhere to the requirements of § 153.071.

(39) Electric vehicle charging station facility.

(a) Electric vehicle charging stations of two or fewer chargers, may be allowed as permitted accessory uses to any principal use of property in any zoning district, provided:

1. The facilities, including the charging stations, transformers, batteries, inverters, or any other equipment provided for such use are located no closer than 20 feet from any public street right-of-way.

2. In residential districts, such facilities shall only be provided within a building, such as a garage or other approved structure, except that the power receptacle and coupler may be placed on the outside of a building for external connection. The facilities shall not be available to the general public.

3. If the facilities are located within a building, such building shall meet all required building setbacks and other building standards as required by the applicable zoning district.

4. The facilities are available to vehicles parked in legal parking spaces on the property.

5. The facilities may service vehicles that occupy required parking for the subject property.

6. The facilities include only directional or informational signage that is in compliance with the requirements of the city's sign ordinance. The use shall not expand the allowable signage on the subject property.

7. The facilities shall be serviced by electric lines on the subject property which are buried underground.

(b) If the proposed accessory EV charging/fueling station facility is of more than two chargers and is to be located on property subject to a conditional use permit or planned unit development, an amendment to such CUP or PUD shall be processed and approved according to the applicable regulations.

(c) If the proposed accessory EV charging facility is to be located on a commercial or industrial property where the facility is available only to the employees of the business, or a multiple family property where the facility is available only to tenants of the property, and in either case, not to the general public, the number of charging stations may exceed two as a

permitted accessory use. Any such facility that provides seven or more such charging stations shall do so through approval of a conditional use permit.

(Ord. 797, passed 2-13-2023; Ord. 799, passed 2-27-2023)

§ 153.093 TEMPORARY USES.

(A) Purpose. This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this division and are discontinued upon the expiration of a set time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building or structure.

(B) Permit required. Temporary uses and structures that require a permit shall be reviewed in accordance with the process outlined in § 153.028(L), Temporary Use Permits; and if a building permit is also necessary, in accordance with § 153.028(I), Building Permits.

(C) General standards for temporary uses. Temporary uses, structures, or events shall comply with the following:

(1) Obtain the appropriate permits (as required), including the signature of the property owner on which the temporary use is proposed;

(2) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(3) Be compatible with the principal uses taking place on the site;

(4) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

(5) Not include permanent alterations to the site;

(6) Meet all the setbacks of the underlying base and overlay zoning districts, unless expressly stated otherwise in this chapter;

(7) Temporary signs permitted under the code and associated with the use or structure shall be removed when the temporary activity ceases;

(8) Not violate the applicable conditions of approval that apply to a site or use on the site;

(9) Not interfere with the normal operations of any permanent use located on the property; and

(10) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the

parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

(D) Table of allowed temporary uses and structures. Table 5-6 summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited.

TABLE 5-6: TEMPORARY USES AND STRUCTURES

Temporary Use or Structure

Allowable Duration (per site)

Permit(s) Required

Additional Requirements

TABLE 5-6: TEMPORARY USES AND STRUCTURES

Temporary Use or Structure

Allowable Duration (per site)

Permit(s) Required

Additional Requirements

Temporary Structure

Construction dumpster (on public ROW/property)

Until issuance of certificate of occupancy or two days following expiration or finaling of a building permit

Yes

§ 153.093(E)(1)(a)

Construction dumpster (on private property)

30 days without a building permit

No

§ 153.093(E)(1)(b)

Construction trailer

Until issuance of certificate of occupancy

Yes

§ 153.093(E)(2)

Mobile food units

See §§ 112.25 through 112.29

Recreational vehicle use

1 month

Yes

§ 153.093(E)(3)

Real estate office/model sales home

Until 85% occupancy of the phase is reached

Yes + building permit

§ 153.093(E)(4)

Temporary mobile cell site

30 days

Yes + building permit

§ 153.093(E)(5)

TABLE 5-6: TEMPORARY USES AND STRUCTURES

Temporary Use or Structure

Allowable Duration (per site)

Permit(s) Required

Additional Requirements

TABLE 5-6: TEMPORARY USES AND STRUCTURES

Temporary Use or Structure

Allowable Duration (per site)

Permit(s) Required

Additional Requirements

Temporary Structure (cont'd)

Temporary sign

120 days per year

Yes

§ 153.064(I)

Temporary storage in a portable container

See § 153.093(E)(6)

Yes

§ 153.093(E)(6)

Tents, canopies, tarp garages, and hoop buildings

30 days per year

Yes

§ 153.093(E)(7)

Temporary Sale

Farmer’s market

Continuous; up to 5 months per year on a single site

Yes

§ 153.093(E)(8)

Garage/yard sale

4 days per event; 3 events total per calendar year

No

§ 153.093(E)(9)

Seasonal sales

60 days per permit; 120 days per calendar year maximum term

Yes

§ 153.093(E)(7) and

§ 153.093(E)(11)

Temporary merchant

See City Code

Wayside stands

See City Code

Special Events

Special events

See City Code

(E) Specific standards for temporary uses.

(1) Construction dumpster.

(a) The placement of a temporary construction dumpster or other trash receptacle within a public right-of-way or other site owned by the city shall be subject to standards in the Monticello City code as may be applicable.

(b) Temporary trash receptacles or dumpsters located outside public rights-of way are not required to obtain a temporary use permit, but shall comply with the following standards:

1. Be located to the side or the rear of the site, to the maximum extent practicable;

2. Be located as far as possible from lots containing existing development;

3. Not be located within a floodplain or otherwise obstruct drainage flow;

4. Not be placed within five feet of a fire hydrant or within a required landscaping area;

5. Be located outside of any required tree protection fencing and the dripline of existing trees; and

6. Be secured with a cover to prevent litter and debris from escaping the dumpster.

(2) Construction trailer.

(a) Construction trailers may be permitted on a construction site provided that the trailer is:

1. Approved by the Community Development Department for location, safety, and compatibility with adjacent properties;

2. Located on the same site or in the same development as the related construction;

3. Not located within a required landscape area; and

4. Associated with development for which a valid building permit has been or will be issued.

(b) The applicant shall be required to restore the trailer site to its previous condition if the trailer is located off the construction site.

(3) Recreational vehicle use.

(a) A recreational vehicle owned by a non-resident, guest, or visitor may be parked or occupied by the guest or visitor on private property containing a permanent dwelling unit for a period not to exceed 30 days while visiting the resident of the property.

(b) The recreation vehicle shall have self-contained sanitary facilities or standard on-site facilities as required by the Community Development Department.

(c) The parking location of a recreational vehicle shall adhere to the requirements of § 153.067, Off-Street Parking.

(4) Real estate sales office/model sales home. One temporary real estate sales office or model sales home per builder or developer shall be permitted in a section or phase of a new residential or nonresidential development provided the office or model home:

(a) Is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscape;

(b) Complies with the applicable standards in the approved development plan (if applicable);

(c) Is operated by a developer or builder active in the same phase or section where the use is located; and

(d) Is removed or the model home is converted into a permanent residential use once 85% occupancy in the section or phase of the development is reached.

(5) Temporary mobile cell site.

(a) A temporary mobile cell site may be erected after issuance of a building permit in the case of equipment failure or testing, or for an interim period (limited to 30 days) after a conditional use permit for a permanent cell site is approved.

(b) Temporary mobile cell sites shall be removed within 72 hours following completion of testing, the installation of the permanent tower, or resolution of equipment failure.

(6) Temporary storage in a portable shipping container. Temporary storage in a portable shipping container shall be permitted to serve an existing use subject to the following standards.

(a) For residential uses, a portable shipping container shall not be located:

1. On a lot without prior approval from the Community Development Department;

2. On an unimproved or unpaved surface;

3. Within ten feet of any lot line or structure;

4. In a manner that impedes ingress, egress, or emergency access; and

5. On an individual parcel or site for more than 30 total days over any one-year period.

(b) For commercial, industrial or civic uses, portable shipping containers shall not be located:

1. On a lot without prior approval from the Community Development Department;

2. Within ten feet of any lot line or structure;

3. In a manner that impedes ingress, egress, or emergency access; and

4. On an individual parcel or site for more than 30 total days over any one-year period unless associated within an active building permit. Successive 30 day permits without additional fee may be authorized until a certificate of occupancy is issued.

(7) Tents, canopies, tarp garages, and hoop buildings. Tents, canopies, tarp garages, and hoop buildings or similar membrane structures shall:

(a) Obtain a building permit from the Community Development Department;

(b) Maintain a minimum clearance of six feet from all other structures and tents;

(c) Not exceed more than one on a single parcel (the Community Development Department may approve more than two as a part of a special event on a single parcel;

(d) Not be erected for more than a total of 30 days in any calendar year with the exception of those uses with valid permits issued under § 153.093(E)(8) through (11);

(e) Be limited to a maximum of three occurrences per parcel per year;

(f) Not be placed within required landscape areas;

(g) Not obstruct emergency vehicle access to adjacent lots or disrupt pedestrian circulation; and

(h) The lot or site shall be restored to its original condition within two days of removal of the tent, canopy, tarp garage, or hoop building.

(8) Farmer's market. Farmer's markets shall:

(a) Be limited to the retail sale of agriculture, horticulture, or floricultural products;

(b) Provide adequate ingress, egress, and off-street parking areas;

(c) Not reduce minimum parking areas below the minimum required for the property under the City Code;

(d) Not be located with any right-of-way;

(e) Renew all applicable temporary use permits annually;

(f) Be subject to the sign standards in § 153.064, Signs;

(9) Garage/yard sales.

(a) Garage or yard sales shall:

1. Be limited to a maximum of three per dwelling per year;

2. Not exceed a maximum duration of four consecutive days per sale;

3. Occur only between the hours of 7:00 a.m. and 9:00 p.m.;

4. Not place items for sale, signs or other advertising within the public right-of-way, or impede the passage of traffic on streets in the area of the sale;

5. Conduct vehicle parking in accordance with the standards in this chapter and any other applicable city requirements;

6. Not negatively affect neighboring properties in terms of noise, trash, parking, or impede the flow of traffic on nearby streets;

7. Not permit loud or boisterous conduct on the premises;

8. Not allow unsold items or other sale-related materials to remain in public view following conclusion of the sale; and

9. Remove all sale related signage immediately upon conclusion of the sale.

(b) The owner and/or tenant of the premises on which a sale is conducted, shall be responsible for the maintenance of good order and decorum on the premises during the hours of the sale.

(10) Wayside stands. A wayside stand shall:

(a) Be limited to the retail sale of agriculture, horticulture, or floricultural products;

(b) Not exceed 750 square feet in area;

(c) Not be located with any right-of-way;

(d) Be authorized in writing by the landowner if conducted on property not owned by the operator of the wayside stand;

(e) Not operate for more than three days per site in any given week;

(f) Not reduce available parking areas below that which is required by code;

(g) Provide adequate ingress, egress, and off-street parking areas; and

(h) Be subject to the sign standards in § 153.064, Signs.

(11) Seasonal sales. Seasonal sales shall:

(a) Be authorized in writing by the property owner if conducted on property not owned by the seasonal sale operator;

(b) Not be located within any right-of-way;

(c) Not reduce available parking areas below that which is required by code;

(d) Provide adequate ingress, egress and off-street parking areas; and

(e) Be subject to the sign standards in § 153.064.

(Ord. 799, passed 2-27-2023)

NONCONFORMITIES

§ 153.105 PURPOSE.

It is the purpose of this chapter to provide for the regulation of nonconforming buildings, structures, and uses and to specify those

requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. The zoning ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures, and uses not be permitted to continue without restriction. Furthermore, it is the intent of this chapter that all nonconforming uses shall be eventually brought into conformity.

§ 153.106 AUTHORITY TO CONTINUE.

(A) Legally conforming existing structures and uses in existence on the effective date of this chapter as denoted in § 153.004 which become nonconforming to this chapter shall be considered legally nonconforming and shall be treated as follows:

(1) A use which is no longer permitted due to a change in zoning shall be considered a legally nonconforming use subject to all conditions for such use as outlined in this chapter, and shall not be expanded, except that legally nonconforming owner-occupied residential uses may be expanded to improve livability, provided the expansion meets all other applicable conditions of the zoning district in which the residential use is located and does not increase any existing nonconforming condition on the property, including the number of residential units in a building.

(2) A structure which becomes nonconforming to a required setback or setbacks shall be viewed as a legally nonconforming structure, subject to all conditions for such structure as outlined in this ordinance, and may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as allowed by division (H) below.

(B) With the exception of structures and uses that meet the requirements of § 153.107(A), any structure or use lawfully existing upon the effective date of this chapter as denoted in § 153.004 may not be expanded, but may be continued—including through repair, replacement, restoration, maintenance, or improvement—unless:

(1) The nonconformity or occupancy is discontinued for a period of more than one year; or

(2) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created

impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50% of the required setback from the water is destroyed by fire or other peril to greater than 50% of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(3) Notwithstanding division (B)(2) above, any nonconforming use located in the floodplain overlay district that is destroyed by fire or other peril to the extent of greater than 50% of its market value, as determined by the Community Development Department, shall be regulated to the extent necessary to maintain eligibility in the National Flood Insurance Program, and in no case shall be continued or re-established in a manner that results in potential flood damage or obstructs flood flows in the floodway (see M.S. § 462.357(1)(e), as it may be amended from time to time).

(C) Nothing in this chapter shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Inspector.

(D) No nonconforming building, structure, or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this chapter adoption unless such movement shall bring the nonconformance into compliance with the requirements of this chapter.

(1) Public improvement project exception. When a condition of private property is rendered nonconforming by the action and/or project of a municipal, county, or state agency, such that as a part of said project, the agency acquires land or property rights affecting the use or conformity of any previously approved condition, the Community Development Department may conduct a site plan review of the resulting property. Where the property under review is subject to a conditional use permit or Variance, or where the property would otherwise require a variance as a result of the review, the city shall provide written notice to abutting property owners no less than ten days prior to final approval. Upon such review, the Community Development Department may issue an approval for the affected private improvements or the relocation of private improvements to another part of the subject property, or another abutting parcel under the control of the affected property owner, without requiring review as a variance, conditional use permit, or other zoning review and approval of either the Board of Adjustment and Appeals or the City Council. In such cases, the following requirements shall apply:

(a) The Community Development Department finds that no reasonable alternative exists to accommodate the continuation of the use on the property without the use of this exception clause.

(b) If private improvements are relocated to an abutting parcel, the owner shall execute and record an easement between the two parcels authorizing the use. In this case, the prohibition against an accessory use on a parcel without a principal use is specifically waived for this purpose.

(c) In cases other than those affected by the public improvement and approved under this section, the relocated private improvements, whether relocated to the same parcel or an abutting parcel, shall be constructed according to all applicable zoning regulations.

(d) The affected private improvements or relocated private improvements shall be considered conforming as of the date of the relocation or acquisition of land or property rights. Said private improvements shall be subject to nonconformity regulations as any other conforming condition if subsequent alterations to the zoning regulations affect such improvements.

(e) The Community Development Department shall cause a description of the site plan approval to be recorded against the applicable property or properties, certifying the approval of the condition in question.

(E) A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

(F) Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

(G) Normal maintenance, necessary non-structural repairs, and incidental alteration of a lawful nonconforming sign includes repair or maintenance of existing lettering done without changing the form or design of the lawful nonconforming sign.

(H) Alterations may be made to a building containing or related to a lawful nonconforming residential unit when said alteration will improve the livability thereof, provided the alteration will not increase the number of dwelling units. In the B-4 zone, alterations or expansion may be made to a building containing or related to a lawful nonconforming residential unit when said alteration or expansion will improve the livability thereof, provided the alteration or expansion will not increase the number of dwelling units and provided that such alteration or expansion shall not constitute more than 50% of estimated market value. Said value shall be determined by City or County Assessor. All adjoining property owners and the Monticello EDA shall be provided notice of plans to expand

nonconforming residential structure. Expansion may occur only after completion of a 30-day notice period.

(Ord. 799, passed 2-27-2023)

§ 153.107 DISCONTINUANCE.

(A) A nonconforming use shall not be reestablished after discontinuance of the use for a period of one year or more.

(B) Efforts to renovate or repair the use as allowed in § 153.107 are not considered discontinuance, provided all appropriate permits and/or development approvals are obtained, and provided the renovation or repair is completed within one year from commencement of repair or renovation, and the use is re-established within one month from the time the renovation or repairs are completed. Failure to complete the repairs or renovation within one year or to reestablish the use within one month following repairs or renovation shall constitute discontinuance, and a nonconforming use shall not be re-established.

§ 153.108 CHANGE IN USE

When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

§ 153.109 BUILDING PERMITS AND ORDINANCE AMENDMENTS.

Any proposed structure which will, due to an ordinance amendment, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of a new ordinance taking effect, may be completed in accordance with the approved plans provided construction is started within 60 days of the effective date of the applicable ordinance, is not abandoned for a period of more than 120 days, and continues to completion within two years. Such structure and use shall thereafter be a legally nonconforming structure and use.

§ 153.110 EXISTING NONCONFORMING LOTS.

(A) Required merger of common ownership lots.

(1) Except as may otherwise be provided for in this chapter, when a group of two or more contiguous lots or parcels of land are owned or controlled by the same person, the following shall apply:

(a) If all lots are conforming to lot width, area and frontage requirements, all lots may remain separate parcels;

(b) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements, than:

1. Such nonconforming lots shall not be sold or developed as a separate parcel of land; and

2. Such nonconforming lots shall be combined with adjacent lots or parcels under the same ownership or control so that the combination of lots or parcels will equal one or more lots each meeting the full lot requirements of this chapter or will lessen the existing nonconformity.

(2) The combination of lots shall be in accordance with the City Code.

(B) Vacant or redeveloped lots. With the exclusion of parcels within the Floodplain Overlay District established in § 153.046(C), legal, nonconforming, vacant lots of record may be developed for single-family detached dwellings upon approval of a building permit under the following conditions:

(1) Legally established. The lot in question was legally established in accordance with requirements of this code existing at the time of its creation and is a separate, distinct tax parcel.

(2) Allowed use. Single-family residential dwellings are an allowed use within the base zoning district.

(3) Minimum lot size.

(a) Sewered lots. A legal nonconforming lot having direct access to municipal sewer, as determined by the Community Development Department, shall be considered buildable provided measurements for lot area and lot width either meet minimum requirements or are within 66% of the requirement of the base zoning district.

(b) Unsewered lots. A legal nonconforming lot not having access to municipal sewer shall be considered unbuildable.

(4) Access. The lot in question has frontage on and will directly access an improved public street.

(5) Health concerns. Public health concerns (potable water and sanitary sewer) can be adequately addressed.

(6) Setback and yard requirements. The setback and yard requirements of the base zoning district can be achieved.

(7) Shoreland requirements. If the parcel is located within the Shoreland Overlay District, development of the lot shall not result in more than 25% of the lot being covered with impervious surfaces.

(C) Developed lots. An existing conforming use on a lot of substandard size and/or width may be expanded or enlarged if such expansion or enlargement meets all other provisions of this chapter.

ENFORCEMENT

§ 153.120 PURPOSE.

This subchapter establishes procedures through which the city seeks to ensure compliance with the provisions of this chapter and obtain corrections for chapter violations. It also sets forth the remedies and penalties that apply to violations of this chapter. The provisions of this subchapter are intended to encourage the voluntary correction of violations whenever possible.

§ 153.121 COMPLIANCE REQUIRED.

(A) In general. Compliance with all the procedures, standards, and other provisions of this chapter shall be required by all persons owning, developing, managing, using, or occupying land or structures in the city.

(B) Approvals required. All persons shall obtain all necessary building permits and/or development approvals required by this chapter prior to development.

§ 153.122 VIOLATIONS.

(A) Failure to comply with this chapter or term or any condition of approval constitutes a violation. Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this chapter, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this chapter shall constitute a violation of this chapter. Examples of violations include but shall not be limited to the following:

(1) Develop land without first obtaining all appropriate permits or development approvals, and complying with all applicable terms and conditions.

(2) Occupy or use land or a structure without first obtaining all appropriate permits or development approvals, and complying with all applicable terms and conditions.

(3) Engage in any development or other activity of any nature in any way inconsistent with a permit or development approval, or other form of authorization granted for such activity by the city.

(4) Violate, by act or omission, any term, condition, or qualification placed by the city upon a required permit, certificate or other form of authorization granted by the city to allow the development or other activity upon land.

(5) To alter, maintain, or use any building or structure or to use any land in violation of any provision of this chapter.

(6) Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

(7) Create, expand, replace, or change any nonconformity, except in accordance with this chapter.

(8) Reduce or diminish the requirements of use, development, or dimensional standards below the minimum required by this chapter.

(9) Through any act or omission, fail to comply with any other provisions, procedures, or standards, as required by this chapter.

(10) To continue any of the above-stated violations.

(B) Development shall adhere to approved plans. Permits or development approvals issued by a decision-making body authorize only the use, density or intensity, location, design, and/or development set forth on the plans reviewed in issuing such permits or development approvals. Development that differs from that which was approved by a decision-making body in a permit or development approval is a violation of this chapter.

§ 153.123 RESPONSIBLE PERSONS.

The owner, tenant, or occupant of any land or structure, or an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a

violation of this chapter may be held responsible for the violation and subject to the remedies and penalties set forth in this chapter.

§ 153.124 ENFORCEMENT GENERALLY.

(A) Responsibility for enforcement. The Community Development Department shall be responsible for enforcing the provisions of this chapter.

(B) General inspections.

(1) Any member of the Community Development Department may enter upon land or inspect any structure to ensure compliance with the provisions of this chapter provided permission has been granted by one of the following:

(a) An owner of the property in question;

(b) A licensee of the business being inspected;

(c) A resident of a dwelling on the property being inspected; or

(d) Any other person in control of the premises.

(2) If the owner, licensee, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the Community Development Department may petition a court of competent jurisdiction for a search warrant to authorize entrance to the property. Such a warrant shall only be used to determine whether the provisions of this chapter or related state statute are being complied with and to enforce this chapter or related state statute. No unrelated criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there is probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(3) Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

(C) Complaints regarding violations. Any person may notify the Community Development Department of a suspected violation of this chapter. In registering a complaint, the complaining party shall state fully the cause and/or basis of the alleged violation. The identity of individuals registering complaints shall remain confidential as required by M.S. § 13.44, as it may be amended from time to time.

(D) Investigation of complaints. Upon learning there is a potential violation of this chapter, a member of the Community Development Department may conduct a general inspection to determine whether a violation of this chapter exists.

(E) Notice of violations.

(1) On finding that a violation of this chapter exists, the Community Development Department shall provide written notification of the violation to the owner of the property on which the violation exists and the person causing or maintaining the violation. The notification shall be delivered by personal service or by certified mail with a return receipt requested. The notice of violation shall:

(a) Describe the location and nature of the violation;

(b) State the actions necessary to abate the violation;

(c) Order that the violation be corrected within a specified reasonable time period not to exceed 30 days after receipt of the notice of violation;

(d) State what course of action is intended if the violation is not corrected with the specified time limit; and advise the alleged violator(s) of their right to appeal the notice of violation to the Board of Adjustment and Appeals in accordance with § 153.028(H).

(2) On receiving a written request for extension of the time limit for correction specified in the notice of violation, the Community Development Department may, for good cause shown, grant a single extension of the time for up to 30 days.

(3) If the owner of the property cannot be located or determined, the Community Development Department shall post a copy of the notice of violation on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

(F) Application of penalties.

(1) On determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension thereof, or has failed to timely appeal the notice of violation, the Community Development Department shall take appropriate action, as provided in § 153.999, to correct and abate the violation and to ensure compliance with this chapter.

(2) Each day a violation continues is a separate offense.

(G) Emergency enforcement without notice. On determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Community Development Department may seek immediate enforcement without prior written notice by invoking any of the remedies or penalties listed in § 153.999.

(Ord. 799, passed 2-27-2023)

§ 153.999 PENALTY.

(A) If the responsible person to whom the notice of violation was directed fails to comply with the applicable provisions of this chapter, that person is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $300 for each offense or imprisoned for not more than 90 days or both.

(B) The city may also enforce any provision of this chapter by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction. No related city permit, license or other approval will be issued to a person or property that has an outstanding notice of violation that is not being appealed, or is not subject to the provisions of a stipulation, order or settlement regarding that violation.

(C) A person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this chapter is guilty of a misdemeanor.

(D) A person who violates, fails to comply with or assists, directs or permits the violation of a performance standard required by this chapter must reimburse the city or its agent for the actual costs of the tests, measurements or other procedures necessary to demonstrate that violation.

(Ord. 799, passed 2-27-2023)

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